

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

|                           |   |                 |
|---------------------------|---|-----------------|
| UNITED STATES OF AMERICA, | ) |                 |
|                           | ) |                 |
| Plaintiff,                | ) |                 |
|                           | ) |                 |
| v.                        | ) | CRIMINAL ACTION |
|                           | ) |                 |
| SOHAIB AKHTER,            | ) | 1:15-cr-124     |
|                           | ) |                 |
| Defendant.                | ) |                 |
|                           | ) |                 |

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REPORTER'S TRANSCRIPT

SENTENCING HEARING

October 2, 2015

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BEFORE: THE HONORABLE T.S. ELLIS, III  
Presiding

APPEARANCES: JOHN TADDEI, AUSA  
JENNIFER CLARKE, AUSA  
KELLEN DWYER, AUSA  
United States Attorney's Office  
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For the Government

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For the Defendant

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MICHAEL A. RODRIQUEZ, RPR/CM/RMR  
Official Court Reporter  
USDC, Eastern District of Virginia  
Alexandria, Virginia

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(Court adjourned)

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PROCEEDINGS

(Court called to order at 2:30 p.m. in USA  
v. Sohaib Akhter.)

THE CLERK: United States versus Sohaib  
Akhter, Criminal Case Number 1:15-cr-124.

Counsel please note your appearance for the  
record.

ATTORNEY TADDEI: Good afternoon, your  
Honor. John Taddei, Jennifer Clarke and Kellen Dwyer  
for the United States.

THE COURT: All right. Good afternoon  
again.

And for the defendant?

ATTORNEY ABBAS: Gadeir Abbas appearance for  
the defendant. Good afternoon, your Honor.

THE COURT: Good afternoon.

Good afternoon to you, Mr. Akhter.

THE DEFENDANT: Good afternoon.

THE COURT: All right. This matter is  
before the Court for sentencing, this defendant having  
been found guilty on the basis of a plea to Counts 1  
and --

Mr. Taddei, what were the counts that --

ATTORNEY TADDEI: Counts 2 and Counts 8,

1 your Honor.

2 ATTORNEY ABBAS: That's correct, your Honor.

3 THE COURT: Two and Eight. Just a moment  
4 while I collect my documents here.

5 (Pause.)

6 THE COURT: Counts 1, 2 and 8.

7 ATTORNEY TADDEI: Yes, your Honor.

8 THE COURT: All right.

9 Counts 1 and 2, of course, are conspiracy to  
10 commit wire fraud and conspiracy to access a protected  
11 computer. These all go to Victim Number 1; is that  
12 correct?

13 ATTORNEY TADDEI: Yes, your Honor, Victim  
14 Company Number 1.

15 THE COURT: And that's the mother of  
16 Mr. Ishak and her company.

17 And then Count 8 is the State Department,  
18 access to the State Department computer.

19 ATTORNEY TADDEI: Yes.

20 THE COURT: All right. I have recited the  
21 offense conduct and it's set out in some considerable  
22 detail in the statement of facts that Mr. Sohaib Akhter  
23 agreed to in the course of his plea colloquy.

24 Let me inquire, first of all, Mr. Abbas,  
25 have you had an adequate opportunity to review the

1 presentence report and to review it with your client?

2 ATTORNEY ABBAS: Yes, I have, your Honor.

3 THE COURT: Mr. Sohaib Akhter, have you had  
4 an adequate opportunity to review the presentence report  
5 and to review it with your counsel, Mr. Abbas?

6 THE DEFENDANT: Yes, I have.

7 THE COURT: And you fully satisfied with the  
8 advice and counsel he has provided to you in this case?

9 THE DEFENDANT: Yes, I am.

10 THE COURT: All right, sir. You may be  
11 seated.

12 THE DEFENDANT: (Complies.)

13 OBJECTIONS/CORRECTIONS TO PRESENTENCE REPORT

14 THE COURT: All right, Mr. Abbas, do you  
15 have any objections or corrections to any of the facts,  
16 conclusions or calculations contained in the presentence  
17 investigation report?

18 ATTORNEY ABBAS: Yes, your Honor.

19 I spoke with counsel for U.S. Attorney's and  
20 regarding their objection to sophisticated means --

21 It's my understanding that you all are not  
22 going to be asserting it any more?

23 THE COURT: I can't hear you. I'm sorry.  
24 Speak up.

25 ATTORNEY ABBAS: We had -- opposing counsel

1 and myself had a discussion regarding the sophisticated  
2 means enhancement that was the basis of the U.S.  
3 attorney's objection. And so just to go through --

4 THE COURT: That's their objection, not  
5 yours.

6 ATTORNEY ABBAS: Sure.

7 THE COURT: I am asking about yours.

8 ATTORNEY ABBAS: Yes. The first objection  
9 that we have would be the victim counting enhancements,  
10 regarding --

11 THE COURT: Paragraph 93, you argue that it  
12 didn't involve 50 or more victims, and that the 16  
13 vendors are the only victims. That's your view.

14 ATTORNEY ABBAS: It's not -- my view is not  
15 that the 16 vendors are the only victims.

16 The point that we are making is that in  
17 order to use a credit card in a manner that creates a  
18 victim under the victim enhancement, a credit card has  
19 to be used in some manner.

20 And the government's -- the statement of  
21 facts itself only indicates that 16 credit -- and I  
22 believe that there has been some correction. I believe  
23 that the government's position now is that there were 18  
24 credit cards used to make purchases from 16 vendors, for  
25 a total of 32 victims -- I'm sorry -- 34 victims.

1 Now, that's less than 50. And it's unclear  
2 where the government -- there is ambiguity in the  
3 statement of facts as to how they are getting to 50.

4 The PSR statement indicates that the way  
5 that we are getting above 50 victims is by adding the 40  
6 credit cards that are listed in the statement of facts  
7 as having been, quote, used or attempted to be used by  
8 the coconspirators.

9 But what is not clear is that -- what --  
10 their definition of "attempted to use" is not comporting  
11 with what, "used to create a victim" under the  
12 sentencing guidelines.

13 So right now we have a situation where the  
14 government can articulate 18 purchases from 16 vendors,  
15 for a grand total of 34 victims, which is less than 50.

16 THE COURT: All right.

17 Mr. Taddie, as I understood it, what you  
18 were arguing is that the 40 individuals had their means  
19 of identification unlawfully used by defendants, so  
20 there were 40 victims and 16 vendors. That accounts for  
21 56.

22 ATTORNEY TADDEI: Yes.

23 THE COURT: That is over 50.

24 ATTORNEY TADDEI: That's correct, your  
25 Honor.

1 I believe Mr. Abbas's argument is that in  
2 the statement of facts for Mr. Akhter, paragraph 10 and  
3 paragraph 29 in the PSR, Mr. Akhter stated that he used  
4 or attempted to use stolen credit card numbers and means  
5 of identification belonging to more than 40 individuals  
6 to purchase goods or services.

7 What that means -- and he is incorrect about  
8 the 18 transactions. It's actually upwards of 35  
9 successful transactions.

10 Now in addition to that, you also have other  
11 individuals where the -- where the defendant used,  
12 meaning they typed in the credit card information,  
13 people's names, people's addresses, clicked "submit,"  
14 but fraud protection methods may have caught that.

15 Now, a definition of "use" that excludes  
16 those transactions would not comport with the guidelines  
17 given, you know, for example, if you consider --

18 THE COURT: But you don't even have to rely  
19 on those.

20 ATTORNEY TADDEI: No, your Honor.

21 THE COURT: So let's stick with the ones  
22 that you -- you are saying that --

23 ATTORNEY TADDEI: What I am saying is, I am  
24 not sure where the 18 number came from. There were 16  
25 business victims identified that actually experienced

1 financial losses, and those are the ones that are listed  
2 in the PSR as the companies that are due restitution.

3 Now those 16 successful -- those 16  
4 businesses were victimized not just a single time, but  
5 some of them were victimized on multiple occasions using  
6 multiple credit cards belonging to multiple individuals.

7 And the number of those individuals is  
8 approximately 35 actual transactions that were completed  
9 using specific individuals' credit card numbers.

10 In addition to that, your Honor, there were  
11 many instances of unsuccessful transactions where the  
12 defendants use people's credit card numbers to try to  
13 buy item, but weren't successful due to fraud protection  
14 methods.

15 Altogether, that brings the number to far  
16 above 50.

17 THE COURT: Let's -- can you get to that  
18 number, more than 50, by relying entirely on the  
19 statement of facts?

20 ATTORNEY TADDEI: I believe so, yes, your  
21 Honor. Because the --

22 THE COURT: All right.

23 ATTORNEY TADDEI: -- statement of facts, as  
24 indicated in PSE paragraph 29, states, "Coconspirators  
25 used or attempted to use stolen credit card numbers and

1 means of identification belonging to more than 40  
2 individuals."

3 What that means is that they successfully  
4 completed transactions and put in people's information,  
5 though it was blocked by fraud protection methods, of  
6 more than 40 individuals.

7 The government's argument is that those 40  
8 individuals and their information comport with the  
9 guidelines definition of "use," which doesn't require a  
10 successful transaction; it requires, quite simply, use  
11 of someone's information.

12 THE COURT: And so to that 40 you add the 16  
13 vendors.

14 ATTORNEY TADDEI: Yes, your Honor.

15 THE COURT: And that gives you 56.

16 ATTORNEY TADDEI: That gives you 56. That's  
17 correct, your Honor.

18 THE COURT: What's your response to that,  
19 Mr. Abbas?

20 ATTORNEY ABBAS: Your Honor, there is no --  
21 there is no authority for the argument that the  
22 government is making that, not successfully utilizing --  
23 not successfully concluding a transaction is -- doing  
24 something less than concluding a transaction is enough  
25 to satisfy the use requirement.

1 And the reason why --

2 THE COURT: Is there any authority to the  
3 contrary?

4 ATTORNEY ABBAS: It's an open -- so -- yes,  
5 there is, I think. So the --

6 THE COURT: What do you mean? What is it?

7 ATTORNEY ABBAS: Well, I agree -- let me  
8 walk that back. I think it is an ambiguous situation --

9 THE COURT: Is there any authority for the  
10 proposition that an attempted use that is unsuccessful  
11 is nonetheless a victim?

12 ATTORNEY ABBAS: The textual basis says that  
13 if you use the victim's -- if you use the means of  
14 identification --

15 THE COURT: Well, if you use it -- it  
16 doesn't say "successful." It just says use it.

17 ATTORNEY ABBAS: But here they didn't use  
18 it, right? They obtained the victim means of  
19 identification, but in -- it wasn't used in any manner.

20 And what's important here is that the  
21 government --

22 THE COURT: It says "used or attempted to  
23 use," 40 -- more than 40 individuals.

24 ATTORNEY ABBAS: But we don't know what --  
25 so they do need the attempted to use credit cards to get

1 above 50. So the first --

2 THE COURT: And do you have any authority  
3 that says attempted to use is not enough for a victim?

4 ATTORNEY ABBAS: The text of what --

5 THE COURT: Other than the text.

6 ATTORNEY ABBAS: No, your Honor.

7 THE COURT: All right.

8 Do you have any authority, Mr. Taddie, that  
9 covers this?

10 And what provision are we looking at?

11 ATTORNEY TADDEI: Your Honor, we looking at  
12 specifically Sentencing Guidelines -- and it's  
13 Section -- let me look at my notes here, Your Honor.  
14 It's Section 2B1.1(b) (2), Comment Note (4) (E). And I'll  
15 read the language for you, your Honor, that we believe  
16 is operative here.

17 "In a case involving means of  
18 identification" --

19 THE COURT: I'm sorry, 2B what?

20 ATTORNEY TADDEI: My apologize, your Honor.  
21 2B1.1(b) (2), Comments Note (4) (E), capital E.

22 THE COURT: 2B1 point what?

23 ATTORNEY TADDEI: 2B1.1(b) (2) --

24 THE COURT: Are you saying D or B?

25 ATTORNEY TADDEI: B as in boy, your Honor.

1 THE COURT: 2B1 point --

2 ATTORNEY TADDEI: -1. And then Comment Note  
3 (4) (E), Commentary Note (4) (E).

4 THE COURT: All right.

5 ATTORNEY TADDEI: And in that commentary it  
6 states:

7 "In a case involving means of  
8 identification, 'victim' also means" -- and then there  
9 is a break -- "any individual whose means of  
10 identification was used unlawfully without authority."

11 And I would direct your Honor's attention to  
12 the case that we cited in our filing, United States  
13 versus Melchor. It's an unpublished case from the  
14 Federal Appendix, but we believe that it's on point.  
15 It's from 2014.

16 It talks about a defendant's argument in  
17 which he states that the District Court erred in  
18 applying a two-level enhancement for the number of  
19 victims -- and I'm reading from the opinion here, your  
20 Honor -- "because only victims who suffered a financial  
21 loss may be counted for purpose of the guidelines."

22 The opinion goes on to say, "The District  
23 Court did not err by considering the individuals whose  
24 identifying information was stolen by Melchor to be  
25 victims for purposes of the guidelines, making the

1 enhancement appropriate."

2 It doesn't indicate that there is any  
3 necessity for a successful transaction. And, in fact,  
4 that would be contrary to the plain reading of the word  
5 "use." These defendants used this information. They  
6 took it, they put it into different websites to try to  
7 buy things. And the only reason it was stopped was  
8 because of fraud protection methods.

9 If actual successful transactions were  
10 required, then there would be no victim of the crime of  
11 attempted credit card fraud. There would be no real  
12 purpose for this additional definition of "victim"  
13 beyond those who suffer actual financial loss.

14 THE COURT: But the way it's taken into  
15 account is in restitution. If you fail to succeed in  
16 your efforts, you don't have to pay money for it to a  
17 victim; but the victim still counts because, in your  
18 view, there is still a victim.

19 ATTORNEY TADDEI: There is still a victim.  
20 They still had their credit card information stolen and  
21 used by these people. They didn't suffer losses because  
22 they weren't successful, but that doesn't change the  
23 fact that it was used.

24 THE COURT: All right.

25 Mr. Abbas, I will give you the final word.

1                   ATTORNEY ABBAS: Your Honor, there is a  
2 possibility for the means of identification to be used  
3 and create a victim that doesn't -- that doesn't involve  
4 a culmination of a financial transaction.

5                   If, for instance, Sohaib had obtained the  
6 means of identification and sold that means of  
7 identification to someone else, he would be using that  
8 means of identification by creating --

9                   THE COURT: Your argument is he didn't  
10 derive any money from it, so he shouldn't be charged  
11 with it.

12                  ATTORNEY ABBAS: But it's broader than that.  
13 It's that within the definition of "use" that creates  
14 victims under this guideline, that attempted use, if it  
15 doesn't result in any impact to the credit card holder,  
16 shouldn't count as a victim. And at this stage they  
17 don't have, in the statement of facts, above 50 actual  
18 uses.

19                  THE COURT: All right.

20                  The objection is overruled. I think there  
21 are more than 50. I disagree with the defendant's  
22 argument that an attempted use that does not result in  
23 loss is not a use. I think an attempted use is a use  
24 under the guidelines.

25                  And so under the statement of facts there

1 are 40 uses or attempted to use the credit cards, and  
2 the 16 victims are -- company victims are an additional  
3 16. So it's greater than 50. So that objection is  
4 overruled.

5 What's the next objection, Mr. Abbas?

6 ATTORNEY ABBAS: There is the objection to  
7 not granting Mr. Akhter acceptance of responsibility for  
8 his conduct.

9 THE COURT: All right. I'll come to that in  
10 a minute.

11 What, other than acceptance of  
12 responsibility?

13 ATTORNEY ABBAS: The paragraph 102, applying  
14 a two-level enhancement, saying that the Count 8 offense  
15 involved a computer system used by the government in  
16 furtherance of the administration of justice, national  
17 defense or national security.

18 The defendant makes an objection to this  
19 enhancement because the government has been  
20 characterizing the computer system that Mr. Akhter's  
21 conduct regards as the passport lock-box.

22 But paragraph 35 of the statement of facts  
23 makes it very clear that the passport lock-box is,  
24 quote, a bureau program, un-quote. So it's not a  
25 computer system. It's a program that has technological

1 parts and doesn't -- so the way that this Court should  
2 construe the computer system at issue here is, instead,  
3 the CCD site access database through which Mr. Akhter  
4 looked up passport information that regarded the 62  
5 individuals identified in the PSR.

6 CCD site access a database that essentially  
7 contain pictures of passport information. There is no  
8 ability for individuals that have access to CCD site  
9 access, for those individuals to approve passport  
10 applications, for those individuals to deny passport  
11 applications, for those individuals to amend those  
12 passport applications in any manner. It is literally a  
13 repository of pictures of passports, essentially.

14 And so because we have an enhancement that  
15 says there are certain categories of government  
16 databases that, if affected, require a two-level  
17 enhancement, there must be government databases that  
18 don't justify the enhancement.

19 And this is an example of a database that is  
20 of such a low-level nature that it doesn't regard the  
21 administration of justice, national defense or national  
22 security. It is simply a passport database -- it is  
23 simply a database of passport pictures.

24 THE COURT: Mr. Taddie, he says it's no big  
25 deal. It's just a database with pictures and

1 information. You can't change anything. You can't get  
2 visas.

3 ATTORNEY TADDIE: Your Honor --

4 THE COURT: So this isn't -- doesn't  
5 entitle -- or doesn't warrant the two-level addition.

6 ATTORNEY TADDEI: First of all, your Honor,  
7 we believe the defendant's focus solely on the passport  
8 database is unduly narrow, given the full scope of  
9 conduct involved in this particular count.

10 One, we -- just to step back for a second,  
11 we do disagree with the assertion that this particular  
12 database -- which as we have been over several times  
13 now, included people's passport information visa  
14 information does not have national security  
15 implications, given that is the key and main document  
16 used for immigration in the United States.

17 But in addition to that, the defendant and  
18 his coconspirators also targeted the broader Bureau of  
19 Consular Affairs systems, and as we indicated, those are  
20 systems that deal not just with passport processing,  
21 they deal with consular affairs, embassies abroad,  
22 consular affairs within the United States for visas.

23 And the danger of surreptitious access to  
24 these systems was exemplified by the defendant's own  
25 conversations with Mr. Ishak, in which he talked about

1 if he was able to gain access, he would be able to  
2 create and approve visas if he wanted to, without State  
3 Department oversight, to sell them, such activities  
4 unquestionably have tremendous national security  
5 implications.

6 And just one last point, your Honor, on the  
7 defendant's argument that there have to be some  
8 government computer systems that are not covered, we are  
9 not talking about someone who, you know, tried to do  
10 things on, you know, the Department of Agriculture  
11 system or some other U.S. Government bureau that is more  
12 far afield from the center of national security. This  
13 is the Bureau of Consular Affairs, at the center of the  
14 safety and security of not only our embassies abroad, as  
15 well as immigration security in the United States.

16 So we believe this enhancement is proper  
17 here.

18 THE COURT: All right.

19 The matter is before the Court on the  
20 defendant's objection as to Count 8 to add two levels.

21 The two levels are warranted, according to  
22 the probation officer, under 2B1.1(b)(18)(i).

23 I believe that's correct, isn't it,  
24 Mr. Taddei?

25 ATTORNEY TADDEI: I believe it's

1 (b) (18) (A) (i), your Honor.

2 THE COURT: (A) (i). All right.

3 And I think that relates to a two-level  
4 enhancement for an offense involving a computer system  
5 used by a government entity in furtherance of the  
6 administration of justice, national defense or national  
7 security.

8 So the question before me, given Mr. Abbas's  
9 argument that this is nothing but a repository of  
10 passport information that can't be changed, that that  
11 doesn't fall into that category -- I don't agree.

12 As the presentence report indicates and as  
13 paragraph 37 of the statement of facts indicates, when  
14 the defendant logged on to a State Department computer,  
15 he got a warning that told him: You are accessing U.S.  
16 Government information system. And it went on to tell  
17 him that it was use -- for government authorized use  
18 only.

19 I think the information that the defendant  
20 accessed via the State Department was certainly  
21 sensitive information, unclassified perhaps, but  
22 sensitive. It allowed him to search for and access  
23 passport information.

24 And I think it's also worth noting that in  
25 the course of the offense, he also attempted to use this

1 access to create an unauthorized account that would have  
2 enabled him to access State Department computer systems  
3 undetected.

4 ATTORNEY ABBAS: Your Honor, by reference to  
5 the unauthorized account, are you --

6 THE COURT: Let me finish.

7 ATTORNEY ABBAS: I apologize.

8 THE COURT: When I am done, then I will ask  
9 you if I have anything. In the meantime, listen. You  
10 may be seated.

11 ATTORNEY ABBAS: (Complies.)

12 THE COURT: As I said, he attempted to use  
13 his access to create an unauthorized account that would  
14 have enabled him to access the State Department computer  
15 system.

16 There was a scheme, where he ultimately was  
17 unsuccessful, to install a physical device at a State  
18 Department building. And had that scheme been  
19 successful, it would have allowed him unilaterally to  
20 approve visa applications without State Department  
21 authorization. It was, as I noted, however, ultimately  
22 unsuccessful.

23 The issue here on the two-level enhancement  
24 under 2B1.1 is whether -- the fact that he couldn't  
25 change this information and whether -- and the fact that

1 it was merely passport information -- names, addresses  
2 and so forth and passport information generally --  
3 whether that falls within the category of a system in  
4 furtherance of the administration of justice, national  
5 defense or national security.

6 The defense argues that it is not, and I  
7 disagree. It's really that simple.

8 Have I missed anything, since you prevailed,  
9 Mr. Taddie?

10 ATTORNEY TADDEI: No, your Honor.

11 THE COURT: Now, did you have something you  
12 wanted to correct me on, Mr. Abbas?

13 ATTORNEY ABBAS: Yes, your Honor. I  
14 apologize sincerely for interrupting.

15 THE COURT: That's all right.

16 ATTORNEY ABBAS: You made a comment  
17 regarding the defendant attempting to create another  
18 account --

19 THE COURT: The unsuccessful one.

20 ATTORNEY ABBAS: So --

21 THE COURT: Oh, before that.

22 ATTORNEY ABBAS: Well, there were  
23 allegations earlier in this case regarding attempts to  
24 create unauthorized accounts. Those are not reflected  
25 in the statement of facts. And so what -- what does

1 remain --

2 THE COURT: Well, they also are irrelevant  
3 to the decision that I make here. They are not relevant  
4 to this decision.

5 ATTORNEY ABBAS: Yes, your Honor.

6 THE COURT: I did mention the unsuccessful  
7 attempt, as indicated in paragraph 44 of the statement  
8 of facts, but that, too, isn't pertinent to this  
9 particular decision.

10 I think your point was that access to this  
11 particular piece of the computer system did not involve  
12 a -- a matter of administration of justice or national  
13 defense or national security, and therefore the two  
14 levels shouldn't apply.

15 ATTORNEY ABBAS: Yes, your Honor.

16 THE COURT: And the simple answer is, I  
17 don't agree. I think it does deal with the  
18 administration of justice. That kind of information is  
19 always used and accessed for that sort of thing.

20 ATTORNEY ABBAS: I understand, your Honor.

21 THE COURT: But I could be wrong, and that's  
22 why there is an opportunity for you to appeal my  
23 decisions.

24 ATTORNEY ABBAS: And I apologize for trying  
25 to clarify in the middle of --

1 THE COURT: That's all right. I have  
2 forgotten it.

3 All right. Now we go on -- that was  
4 paragraph 102.

5 Now as to paragraph -- the next objection  
6 you have, I think, was to paragraph 103, the official  
7 victim?

8 ATTORNEY ABBAS: Yes, your Honor.

9 THE COURT: What's that objection?

10 ATTORNEY ABBAS: So, it's related, in the  
11 defendant's view, to an objection that was sustained.  
12 The -- paragraph 100 initially was calculated to provide  
13 a four-level enhancement based on more than 50 victims.  
14 So each of the 62 persons that had their passport  
15 information accessed were initially counted as victims.

16 Prior to the final PSR, we objected, the  
17 government agreed, and the final PSR reflected, quote,  
18 "There is no evidence the defendant used the personally  
19 identifying information of the 62 individuals whose  
20 passport information he unlawfully accessed," un-quote.

21 So now we have an anomalous situation where  
22 paragraph 100 is saying that there are no victims  
23 besides the government, and --

24 THE COURT: There are victims. I just  
25 recited 50 of them. You are talking about official

1 victims.

2 ATTORNEY ABBAS: Well -- so paragraph 100,  
3 the conclusion was that the 62 individuals whose  
4 passport information were unlawfully accessed, that  
5 information was just accessed and not used in any  
6 manner, they don't count as victims.

7 And so when we get to paragraph --

8 THE COURT: You are talking about paragraph  
9 100 of the presentence report?

10 ATTORNEY ABBAS: Yes.

11 THE COURT: I don't see -- paragraph 100 of  
12 the presentence report? Are we looking at the same  
13 thing?

14 ATTORNEY ABBAS: I am referring to the  
15 victims that -- I am referring to the persons that  
16 had -- that Sohaib Akhter looked up their passport  
17 information.

18 THE COURT: All right. What about that?

19 ATTORNEY ABBAS: So one of those -- one of  
20 those individuals who Sohaib Akhter looked up the  
21 passport information --

22 THE COURT: Was a federal agent.

23 ATTORNEY ABBAS: -- was a federal agent.

24 But before you can be an official victim  
25 under the official victim enhancement, you need to be a

1 victim first, in the defendant's perspective. And  
2 because the official victim, the official -- the  
3 government agent's passport information wasn't used in  
4 any manner -- no one tried to sell it, no one tried to  
5 do anything with it other than observe it --

6 THE COURT: Well, they had conversations  
7 about it, which I have read.

8 ATTORNEY ABBAS: They had conversations  
9 about it. But at base, what the, you know, Mr. Sohaib  
10 Akhter's motivation was in accessing that information,  
11 that passport information, was not to sell it, was not  
12 to disseminate it widely; it was to show off to his  
13 friends in his circle that he had that access. But that  
14 doesn't make the government agent an official victim and  
15 warrant that three-level enhancement.

16 The government cites to a few cases that  
17 don't explain why -- don't provide an example of how  
18 there can be no victims based on looking at information,  
19 but somehow the definition of an official victim is  
20 somehow broader and different.

21 And so that's why the three-level  
22 enhancement for an official victim is not warranted  
23 here.

24 THE COURT: All right.

25 Mr. Taddie, do you understand what Mr. Abbas

1 is saying about --

2 ATTORNEY TADDEI: I think I do, your Honor.

3 THE COURT: All right.

4 ATTORNEY TADDEI: And here is the point of  
5 distinction: My understanding of what his point is, is  
6 that in paragraph 100 --

7 THE COURT: Of the presentence report.

8 ATTORNEY TADDEI: -- of the presentence  
9 report, yes, your Honor, did not assess an increase for  
10 victims under Section 2B1.1, which is the financial  
11 crimes guideline, because those victims did not suffer  
12 financial loss -- and similar to the argument we were  
13 just having prior on the previous count group -- none of  
14 those individuals' passport or personal information was  
15 used.

16 THE COURT: Well, in fact, under --

17 ATTORNEY TADDEI: That's my understanding of  
18 his argument, your Honor.

19 THE COURT: All right. He did get an  
20 enhancement for more than 50 victims.

21 ATTORNEY TADDEI: Under Count Group 1, your  
22 Honor, yes.

23 THE COURT: That's right.

24 ATTORNEY TADDEI: He is talking about the  
25 victims for Count Group 8, is what he is referring to.

1 THE COURT: I see.

2 ATTORNEY TADDEI: As I understand his  
3 argument, it's that if there are no victims under 2B1.1,  
4 there can't be an official victim under Chapter 3 --

5 THE COURT: Yes.

6 ATTORNEY TADDEI: -- specifically Chapter  
7 3A1.2.

8 THE COURT: What's the answer?

9 ATTORNEY TADDEI: Where that's wrong, and I  
10 think the Eighth Circuit case that I cited, United  
11 States versus Richak (phonetics), clearly states that  
12 Chapter 2 and Chapter 3 involve distinct sentencing  
13 concerns. Chapter 2 has to do with victims of financial  
14 crimes. Chapter 3 specifies other relevant offense  
15 conduct such as, in this case, the targeting of federal  
16 agents.

17 And there is no question that the only  
18 reason that Sohaib Akhter accessed Special Agent Ross's  
19 information was because he was investigating him for  
20 other crimes. There would be no other reason for Sohaib  
21 Akhter to be aware of Special Agent Ross's existence.

22 THE COURT: Indeed, their conversation  
23 reflects that.

24 ATTORNEY TADDEI: Exactly.

25 And in addition to their conversation -- and

1 Mr. Akhter's position is that it's not relevant --  
2 reflects that he was specifically targeted because of  
3 this behavior, and it was evidenced by Muneeb's  
4 statements that he -- you know, what's he going to do  
5 with this? He could consider selling it on the Darknet  
6 to criminals who might find it valuable.

7 But we don't even need to necessarily get  
8 there --

9 THE COURT: Or otherwise use it.

10 ATTORNEY TADDEI: Or otherwise use it.

11 The important factor here, though, your  
12 Honor, is that the agent in this case was specifically  
13 targeted due to his official government position, and  
14 that's what makes this unique.

15 THE COURT: The case you cited really  
16 doesn't decide the question squarely.

17 ATTORNEY TADDEI: It does not, your Honor.  
18 But it does indicate the reason for why there can be no  
19 victim enhancement in paragraph 100, 2B1.1, and there  
20 can be an official victim enhancement. Because the  
21 definition of an official victim is broader than the  
22 definition of a financial crimes victim contained in  
23 2B1.1.

24 If an official victim had to suffer some  
25 sort of financial loss or financial injury, then -- you

1 know, a prison guard who is beaten by a defendant, or a  
2 police officer who was extorted by virtue of his job,  
3 could never be an official victim, if it was shoe-horned  
4 in that way. Therefore, we think that enhancement is  
5 appropriate, your Honor.

6 THE COURT: All right.

7 Mr. Abbas, I will give you the final word.

8 ATTORNEY ABBAS: We are not asserting that  
9 we had to show some type of financial loss to the agent  
10 affected, and we are definitely not arguing that the  
11 agent whose passport information was looked up -- the  
12 reason that Mr. Akhter looked it up was because he was a  
13 government official. That's not the argument that we  
14 are making.

15 But what's --

16 THE COURT: The reason he looked it up is  
17 because he was the agent looking at them.

18 ATTORNEY ABBAS: Yes. Yes, your Honor.

19 THE COURT: He wanted it either for  
20 leverage, as he put it, or to sell.

21 ATTORNEY ABBAS: There is -- and this is  
22 from the government's perspective and how they  
23 characterized Mr. Akhter's Akhter's action. Some --  
24 some of --

25 THE COURT: And Mr. Ishak's statement.

1           ATTORNEY ABBAS: But some of -- some of the  
2           conduct that Mr. Akhter engaged in was explained, not by  
3           a financial incentive, but is best explained, from the  
4           government's perspective, as his view that he was  
5           playing a game, he was trying to see what he could do,  
6           and that doesn't necessarily create an official victim  
7           here.

8           There is no -- there isn't any clear  
9           evidence that there was any attempt to sell the passport  
10          information. There wasn't any attempt to profit from  
11          the passport information. It's not as if there was --  
12          this is different than in the Count 1, Count 2  
13          situation, where we are talking about attempted use of  
14          credit cards, because there wasn't an -- there wasn't  
15          even an attempt to use the agent's passport information.  
16          It was obtained, but that doesn't create an official  
17          victim.

18          THE COURT: All right.

19          Mr. Taddie, anything further?

20          ATTORNEY TADDEI: Your Honor, I would just  
21          like to underscore the point that Chapter 3 (sic) and  
22          Chapter 3 do involve distinct concerns. Chapter --

23          THE COURT: Chapter what?

24          ATTORNEY TADDEI: Chapter 2 of the  
25          Sentencing Guidelines and Chapter 3 involve distinct

1 concerns. Chapter 2 deals with the specific offense, in  
2 this instance the financial crimes grouped offense in  
3 this hacking instance. And Chapter 3 deals with special  
4 offense characteristics.

5 And the special offense characteristic here  
6 is that a specific individual, who is targeted solely by  
7 virtue of their employment for the government, in this  
8 case investigation of the defendant's illegal  
9 activities, had his personal information, not only  
10 accessed but removed.

11 And the defendant wants the high standard  
12 that only people who have their passport information  
13 sold or who is -- there is financial gain in it for the  
14 defendant can be liable for an official victim  
15 enhancement, that would unduly narrow the class of  
16 official victims well beyond those who experience some  
17 form of injury.

18 In this case there may not be a financial  
19 injury, but there's certainly a tangible injury to  
20 Special Agent Ross and his family by virtue of having to  
21 deal with the fact that this information was out there.

22 THE COURT: All right.

23 The matter is before the Court on the  
24 defendant's objection to a victim-related adjustment.  
25 It's special -- let's see. It's under --

1 ATTORNEY TADDEI: Your Honor, it's 3A1.2.

2 THE COURT: 3A1.2(a); is that right?

3 ATTORNEY TADDEI: Yes, that's correct, your  
4 Honor.

5 THE COURT: And it's a victim-related  
6 adjustment.

7 And does it add two levels or three levels?

8 ATTORNEY TADDEI: It adds three levels, your  
9 Honor.

10 THE COURT: And it adds three levels.

11 Now, the defendant says there can't be a  
12 victim here -- that's the government officer -- because  
13 there was no use of the information. It was just  
14 access. And he points out that under paragraph 100  
15 there were no victims under 2B1.1(b) (2), so there can't  
16 be under (3).

17 The government points out that the  
18 considerations are different in Chapters 2 and 3, and an  
19 official can be a victim simply by having his  
20 information accessed, and has given some examples of why  
21 that's so.

22 I think it is -- and the case the government  
23 cites, which I think I looked at, does not resolve this  
24 question directly. What it does make clear is that  
25 there are different considerations at work in Chapters 2

1 and 3.

2 That's the only purpose for which you cited  
3 it, isn't it, Mr. Taddie?

4 ATTORNEY TADDEI: That's correct, your  
5 Honor.

6 THE COURT: It doesn't resolve this precise  
7 argument Mr. Abbas is making.

8 ATTORNEY TADDEI: No, your Honor, though I  
9 will point your Honor's attention to the second case  
10 that we cited from the D.C. Circuit, which collects  
11 cases that deal with government employee victims who are  
12 properly characterized under 3A1.2, even in instances  
13 where the victim did not experience financial loss or  
14 use of someone's information.

15 Those cases, the defendants --

16 THE COURT: What is the cite to that case?

17 ATTORNEY TADDEI: It's United States versus  
18 Hunter, 555 (sic) Federal Appendix 5, is the citation,  
19 your Honor.

20 THE COURT: Bring me that case, please, 555  
21 Federal Appendix 5. You will have to go print it out.

22 ATTORNEY TADDEI: And the purpose for that,  
23 your Honor, just to preview what it says, is essentially  
24 that if a defendant illegally files false claims of  
25 misconduct against a government official, essentially in

1       retaliation, then they are considered an official  
2       victim.

3                   And we used it -- again, it's not  
4       specifically on point, but it rebuts the conception that  
5       a defendant (sic) needs to be characterized as an  
6       official victim within 2B1.1, or had their information  
7       used or experienced a financial loss in order for them  
8       to be considered an official victim.

9                   THE COURT: All right.

10                  Mr. Abbas?

11                  ATTORNEY ABBAS: US v Hunter is narrower  
12       than that. US v Hunter really --

13                  THE COURT: Come to the podium, please.

14                  ATTORNEY ABBAS: US v Hunter presents the  
15       situation where individuals are filing complaints  
16       against government official in retaliation for perceived  
17       wrongs or other grievances, but they are taking an  
18       action that triggers a legal process that the government  
19       official is then subjected to.

20                  There -- it's an abuse of process,  
21       essentially, claim that is creating the official victim,  
22       whereas here -- and this is not to minimize the -- this  
23       Court can take into account the fact that Mr. Akhter  
24       looked up the passport information that regarded the  
25       government official in other ways than this sentencing

1 enhancement.

2 But the fact is that an official victim  
3 needs to qualify as a victim. And here, because the  
4 passport information was obtained, US v Hunter doesn't  
5 indicate that that's enough for, for -- to create a  
6 victim in this section.

7 THE COURT: All right. I am going to look  
8 at this case briefly. But I think, Mr. Taddie,  
9 modestly, the case doesn't resolve the question, does  
10 it?

11 ATTORNEY TADDEI: No, your Honor. It  
12 doesn't squarely -- it doesn't squarely resolve the  
13 question.

14 THE COURT: So what do you think the case  
15 really does?

16 ATTORNEY TADDEI: I think what the case does  
17 is it indicates that "official victim" is broader than a  
18 victim that would fall under 2B1.1. If someone is being  
19 targeted for legal process in retaliation for their  
20 official duties, that's not a victim under 2B1.1. They  
21 don't experience financial loss and there is no use of  
22 their personal information.

23 In this circumstance it's very similar. You  
24 have an agent who is targeted for his role in this  
25 investigation.

1                   And one point of clarification on the facts.  
2                   This wasn't just viewing his information on the  
3                   computer. Mr. Akhter actually removed it from those  
4                   computers. He brought it home. He showed it to his  
5                   coconspirators. And that's how Mr. Akhter's brother had  
6                   it, to threaten to sell it on the Darknet. So it goes  
7                   well beyond just merely viewing this.

8                   THE COURT: All right. Just a moment.

9                   (Pause.)

10                  THE COURT: Did you say 555 Federal Appendix  
11                  5?

12                  ATTORNEY TADDEI: 554 Federal Appendix 5.

13                  THE COURT: All right. Let me get that and  
14                  look at it.

15                  Let's come back to that.

16                  What's the next one, Mr. Abbas?

17                  ATTORNEY ABBAS: I think we are circling  
18                  back to acceptance of responsibility.

19                  THE COURT: All right. Anything other than  
20                  acceptance of responsibility?

21                  ATTORNEY ABBAS: If it's -- if it's all  
22                  right with the Court, I would like to make one  
23                  additional comment.

24                  THE COURT: Yes, you may.

25                  ATTORNEY ABBAS: So I think when you are

1 looking at US v Hunter, Mr. Taddei's comments bring out,  
2 I think, an important point, that the offense of  
3 conviction matters.

4 So under the victim-related adjustment that  
5 applies to official victims, it matters that the, quote,  
6 "the offense of conviction was motivated by such  
7 status."

8 The offense of conviction here is not that  
9 Mr. Akhter looked up a government agent's passport  
10 information. The unauthorized access requires the  
11 government to show some other -- that that access was  
12 done in furtherance of some other lawful or tortious  
13 conduct.

14 In this case, one of the distinguishing  
15 characteristics between this situation and US v Hunter  
16 is that the offense of conviction, there are -- the  
17 Privacy Act makes it a misdemeanor to look up people's  
18 passport information, but the crime -- the offense of  
19 conviction in this situation is not tied to the official  
20 identity of --

21 THE COURT: Why did they --

22 (Simultaneous speaking.)

23 ATTORNEY ABBAS: -- government official.

24 THE COURT: -- look him up?

25 ATTORNEY ABBAS: I'm sorry, your Honor?

1 THE COURT: Why did they look him up?

2 ATTORNEY ABBAS: They looked him up  
3 because --

4 THE COURT: He was investigating the offense  
5 of conviction.

6 ATTORNEY ABBAS: Yes, your Honor. But the  
7 reason that he was looking up the -- but the act of him  
8 looking up the passport information of the government  
9 agent is not, by itself, sufficient to sustain the  
10 counts. It's the aggregation of the criminal conduct  
11 that allows the government to sustain counting.

12 THE COURT: All right. Thank you.

13 ATTORNEY TADDEI: Your Honor, if I may?

14 THE COURT: Briefly.

15 ATTORNEY TADDEI: Specifically on pages 10  
16 and 11, I believe is where the most operative language  
17 was, based on the citation in my memo.

18 THE COURT: I don't have the luxury of page  
19 numbers on this, but the sentencing challenges begin  
20 under Roman III.

21 (Pause.)

22 THE COURT: All right. I have read the  
23 appropriate portion, and I think, Mr. Taddie, you have  
24 accurately characterized the case as really only making  
25 clear the difference between Chapter 2 and Chapter 3.

1                   There, they applied the Chapter 3  
2                   enhancement because there were 1,400 complaints sent to  
3                   the inspector general for -- or falsely accusing IRS  
4                   employees of misconduct. And that, in the court's view,  
5                   was sufficient to qualify the status of victims for  
6                   these people, right?

7                   ATTORNEY TADDEI: Yes, your Honor.

8                   THE COURT: False claims of misconduct. All  
9                   right.

10                  (Pause.)

11                  THE COURT: So really what it comes down to,  
12                  simply put, is the defense argues that simply accessing  
13                  the agent's passport information, which would include  
14                  his name, his address and where he traveled and that  
15                  sort of thing --

16                  Is that right?

17                  ATTORNEY TADDEI: Your Honor, I think that  
18                  would be their assertion. But our assertion is that it  
19                  wasn't only accessed. They actually removed it and took  
20                  it home.

21                  THE COURT: Yes, all right. So they  
22                  actually had it. They had the information, copied it  
23                  and took it home.

24                  (Continuing) -- that in the defendant's view  
25                  he is not a victim because nothing happened as a

1 consequence of that. That's essentially what the  
2 defendant is arguing. He didn't suffer any monetary  
3 loss. There were no -- there were no investigations or  
4 false accusations.

5 And your view is that he is an official  
6 victim just by having his information copied and taken  
7 home.

8 ATTORNEY TADDEI: Yes, that is our position,  
9 your Honor.

10 THE COURT: And there is no real authority  
11 in this regard for this -- I'm not sure it would make  
12 any difference to my sentencing decision.

13 I know quite clearly that if I were to ask  
14 the agent whether he thought he was a victim, I don't  
15 have any doubt what he would say. He would say, "Of  
16 course I'm a victim." He wouldn't want people accessing  
17 his information.

18 And there is material in the record  
19 indicating that the conspirators talked about what they  
20 might use the information for. They might sell it or  
21 they might otherwise use it. I don't know.

22 It's a little ambiguous whether they thought  
23 they might be able to use it to coerce any activity or  
24 not. I don't see that as any possibility, and I don't  
25 rest my decision on it.

1           But I do think that Chapter 2 and Chapter 3  
2           have different purposes, different objectives, and I do  
3           think you can be an official victim without having had  
4           any monetary loss, without having had a complaint made  
5           against you, as occurred in the case I looked at. You  
6           can be an official victim, as this individual was,  
7           because they accessed his information and took it away.

8           How they would use it or whether they would  
9           gain any money from it or anything else, I think is not  
10          required for this person to have been an official  
11          victim.

12          So I will overrule the objection and the  
13          three level enhancement will continue.

14          Now that brings us back to acceptance of  
15          responsibility.

16          This is the same issue I just had with  
17          respect to his brother, Muneeb. And unless you can tell  
18          me something different, I think the case is stronger for  
19          acceptance for this defendant than it was for his twin  
20          brother, who engaged in some nefarious conduct while he  
21          was incarcerated. This defendant didn't. So I am  
22          inclined to grant this defendant acceptance of  
23          responsibility, unless you can give me something new.

24          ATTORNEY TADDEI: No, your Honor. We would  
25          defer to the Court on that determination.

1 THE COURT: All right.

2 So now what we have is the following --

3 I think I have ruled on all the objections,  
4 haven't I, Mr. Abbas?

5 ATTORNEY ABBAS: Yes --

6 THE COURT: And I'm not going to use --

7 (Simultaneous speaking.)

8 ATTORNEY ABBAS: -- government --

9 THE COURT: Sophisticated means.

10 ATTORNEY ABBAS: That's the remaining --

11 THE COURT: You were here, weren't you?

12 ATTORNEY ABBAS: I was here, your Honor.

13 THE COURT: All right. Same ruling for the  
14 same reasons.

15 ATTORNEY ABBAS: Thank you.

16 THE COURT: But now what we have is on  
17 Count 1, really Counts 1 and 2 is 6 base offense level,  
18 plus 6 for the loss of approximately \$31,375. That's 5;  
19 plus 50 or more victims, which I have ruled on, is plus  
20 4; plus, there is a 2-level enhancement for -- under  
21 2B1.1(b)(17), that's for intent to obtain personal  
22 information, and so the -- and this defendant gets a  
23 2-level enhancement for obstruction. This is the wiping  
24 of the computers.

25 So that takes him to an adjusted offense

1 level of 20.

2 Then for Count 8, there is a base offense  
3 level of 6, and he gets 2 levels for the intent to  
4 obtain personal information, and plus 2 for computer  
5 system used by a government entity -- I ruled on that --  
6 in furtherance of the administration of justice; and a  
7 plus 3 enhancement because the victim was a government  
8 officer.

9 And adjustment for role in the offense, he  
10 doesn't get. Am I correct about that?

11 ATTORNEY TADDEI: I'm sorry, your Honor.  
12 Which portion was that? I apologize.

13 THE COURT: I'm talking about Count 8 for  
14 this defendant.

15 ATTORNEY TADDEI: Yes.

16 THE COURT: Was he an organizer, leader or  
17 manager?

18 Yes, he was. There is a plus 2 for that.

19 ATTORNEY TADDEI: Yes, your Honor.

20 THE COURT: So that's a 15 total. And,  
21 therefore, he gets a combined adjusted offense level of  
22 21, with minus 3 for acceptance, for a total offense  
23 level of 18, and a guideline range of 27 to 33 months.

24 ATTORNEY TADDEI: Your Honor, just -- again  
25 just for purposes of the record, we would move for the

1 additional point --

2 THE COURT: Yes.

3 ATTORNEY TADDEI: -- under the acceptance of  
4 responsibility.

5 THE COURT: And that's granted and that's  
6 obligated under the plea agreement. And that's taken  
7 into account in the numbers that I have just recited.

8 So now we proceed to allocution.

9 I otherwise adopt the findings and  
10 conclusions of the presentence report as the findings  
11 and conclusions in this case, except to the extent that  
12 I ruled otherwise. And the same is true as I did in the  
13 other -- in his brother's sentencing.

14 Now, Mr. Sohaib Akhter, this is now your  
15 opportunity to address the Court and to say anything at  
16 all you wish to the Court by way of extenuation,  
17 mitigation or, indeed, anything at all you think the  
18 Court should know before sentence is imposed. You don't  
19 have to address the Court, but you have the opportunity  
20 to do so if you wish to.

21 THE DEFENDANT: Yes, I would like to address  
22 the Court, please.

23 THE COURT: All right, sir. Speak up,  
24 please, if you would.

25

1 ALLOCUTION BY THE DEFENDANT

2 THE DEFENDANT: Your Honor, I am extremely  
3 humbled and grateful for the opportunity you have given  
4 me to address the Court.

5 I would like to give you a full  
6 representation of who I am, through my words, as an  
7 individual as to help you in determining a sentence for  
8 me.

9 THE COURT: Yes.

10 THE DEFENDANT: This is --

11 THE COURT: Let me -- if you don't mind, I  
12 will interrupt you for a moment to say that your counsel  
13 delivered, today, a ream of information, which I have  
14 now reviewed. There are many letters in there that I  
15 will make a part of the presentence report.

16 I am particularly -- if you want to address  
17 it, I was impressed by a letter from a woman whose  
18 family you aided and supported, to some extent, a woman  
19 with three children --

20 THE DEFENDANT: Yes.

21 THE COURT: Let me find that again.

22 THE DEFENDANT: Terri Haynes, right?

23 THE COURT: I beg your pardon?

24 THE DEFENDANT: The name is Terri Haynes,  
25 right?

1 THE COURT: Yes, Terri Haynes. You might  
2 want to address that, too.

3 What did you do for them?

4 THE DEFENDANT: So, when I was in Richmond I  
5 was away from my family who a while, and I was at  
6 Virginia Commonwealth University doing my studies over  
7 there.

8 But I engaged in a lot of community  
9 ventures, like volunteer for Carter Elementary School,  
10 or help out with the MSA, you know, project downtown,  
11 where there was a lot of homeless people. So I would go  
12 out every Friday and deliver lunch to these people, and  
13 I would sit down and talk to them and figure out what  
14 their story was.

15 I was also a ride share for one of my  
16 friends, Tamor Mahmoud (phonetics), whose letter is also  
17 submitted to you. I would take him up to Northern  
18 Virginia. I would come on the weekends to, you know,  
19 stay with my family, get some food for the week, because  
20 I don't know how to cook that well.

21 And in doing so, there were certain days  
22 where I would just -- my friend doesn't want to go back,  
23 so I would go back, I would look on craigslist for  
24 places -- or people who wanted a ride somewhere.

25 And I also checked out the volunteer

1 section, and I found this lady who was asking for help.  
2 So I decided to go and help.

3 THE COURT: And what did you do for her?

4 THE DEFENDANT: So at that point it was  
5 nearing Christmastime and she wanted -- she needed some  
6 money to keep the lights on and the electric bill and  
7 things like that, as well as she wanted money to buy  
8 presents for her kids.

9 So I went out and met her -- it was  
10 Chesterfield. It was about a 20-minutes drive from  
11 where I was. And I took her to the local Walmart. We  
12 bought presents. We bought food for that Christmas.

13 And then I got engaged with her and her boys  
14 and talked to them online and through phone calls. And  
15 then every now and then she would like -- she didn't  
16 have the money for gas, and I would give it to her.

17 So that's basically --

18 THE COURT: What was your relationship?  
19 Just friendship and generosity?

20 THE DEFENDANT: Yes, just friendship and  
21 generosity.

22 THE COURT: There was no romantic  
23 relationship.

24 THE DEFENDANT: No, there wasn't.

25 THE COURT: All right.

1 THE DEFENDANT: There were a number of other  
2 homeless people that I helped, but I couldn't get their  
3 contact information to be able to provide you a  
4 reference from them.

5 But I -- my conduct while I was in VCU,  
6 while I was in Richmond, was primarily -- you know, I  
7 wanted to help people. I was a biomedical engineer. I  
8 initially went there to be a medical doctor. But I  
9 didn't have the funds to do so, and I didn't want to  
10 burden my family, so I resorted to doing a master's in  
11 biomedical engineering.

12 I also helped -- like one of my projects, my  
13 thesis was to help blind people. So I would go to the  
14 Rehabilitation Center for Blind and Visually Impaired  
15 that's in Richmond, and take the people for subject  
16 tests, IRV-approved tests. And some of them would feel  
17 lonely. I would give them company.

18 And Tamor's letter explains one of those  
19 circumstances.

20 And I helped with many school activities, as  
21 well, like scholastic tournaments.

22 So this is prior to, you know, me getting  
23 involved with my brother in the company that we started.

24 So, I mean, I am extremely disappointed to  
25 say, this case is very disappointing to me, because I

1 really wanted to work with the government.

2 And our company, after my brother won his  
3 contract, his DARPA contract, for \$190,000, we really  
4 wanted to, you know -- we saw that as a path forward for  
5 our inventive ideas, to see what problems the  
6 government's have with their soliciting on their  
7 websites and what, you know, we could help with.

8 So there are certain contracts that we -- I  
9 applied for eight contracts. I give you have an example  
10 of two of them. One of them was for the Army. They  
11 wanted a system on a chip to kind of analyze soldier's  
12 vitals while he was in the field and report that; but  
13 also energy scavenge from when he is moving around, to  
14 get the energy to power the device.

15 So I proposed a voltage-gated system on a  
16 chip design to them.

17 I also proposed a pneumatic load-bearing  
18 suit for people for DARPA, DARPA -- but it shows my  
19 commitment to our serving men and women, and that I am a  
20 patriot.

21 So, between -- after I submitted these  
22 contracts, we had business relations with other people.  
23 A number of these business relationships went really  
24 well, and they would praise our work, with the exception  
25 of Victim Company 2, that my brother worked for and he

1 had unauthorized access to that computer well  
2 afterwards.

3 But after that point, we didn't get any  
4 money, we didn't get any contracts from the government.  
5 So we decided to look for jobs.

6 And in the meantime, my brother got access  
7 to credit card information, and I -- we lost track of  
8 what was right and wrong.

9 We sincerely apologize to anyone that we  
10 have hurt, and repay our victims their full measure.

11 But that is -- you know, it was an  
12 unfortunate circumstance with the three of us, and we  
13 completely lost track of what was right and wrong.

14 So then after that, we were investigated the  
15 first time, July 24th is when the first raid happen.  
16 After that, I was extremely, you know, sensitive.

17 I was going to go back down to VCU to  
18 complete the PhD program with the biophysics department,  
19 and I was -- I was being hired as a design engineer to  
20 work with Dr. Jason Reid in the biophysics department on  
21 his vertical scanning interferometer design and his  
22 atomic force -- high-speed atomic force microscope  
23 design, but he was paying me as a student, not as an  
24 engineer.

25 So we had an squabble, and he decided to go

1 with someone else and withdraw his offer.

2 So, I tried to sell the car that I was using  
3 to go down to Richmond, my Honda Civic hybrid, and I met  
4 the head of business unit at -- for ActionNet -- and he  
5 saw me as an honest person and offered me the job for  
6 Department of State.

7 I loved my job at the Department of State.  
8 I loved my coworkers. They were great people. And I  
9 did -- I did amazing work for them. I loved the  
10 customers that came to me, the visa customers. I took  
11 every case with fervor and with the attention, if  
12 something is happening, that I want to give it my full,  
13 you know, effort to solve those problems.

14 There is a reference check form from Richard  
15 Nago (phonetics) where I have highlighted the relevant  
16 portions, if you would like to take a look at that.

17 THE COURT: All right. Give it to your  
18 counsel.

19 Have you seen it, Mr. Abbas?

20 ATTORNEY ABBAS: Yes, your Honor. You have  
21 a company of it as well.

22 THE COURT: All right.

23 Go on.

24 THE DEFENDANT: Okay. So --

25 THE COURT: Well, let's be sure I have.

1 Give it to the court security officer.

2 (Document tendered.)

3 THE COURT: Yes, I think I have seen this.

4 Go on.

5 THE DEFENDANT: Okay. So I worked there for  
6 a period of six months, and during those six months I  
7 had no problems. I was working on the visa system. But  
8 towards the end of my tenure there, I was being promoted  
9 to a database developer.

10 I knew the developers worked with LockBox,  
11 and the manager that I would be under -- Sessimal  
12 (phonetics), the lady -- Sessimal is her original name,  
13 but she goes by that at ActionNet. And she was working  
14 with LockBox. So this was who I would be working for.

15 She asked me to look at LockBox. So I went  
16 onto the system on my own machine, on my designated work  
17 station, government workstation. I logged in to the CCD  
18 site access with my username and my password, and I --  
19 there was a search form there for a name.

20 So I typed in my name, Sohaib Akhter, just  
21 to see, you know, my passport record, see what happens.  
22 I was very curious. I did not read any the warning  
23 signs that were there. I should have put them into  
24 bigger consideration.

25 But I just typed in my name. I saw my

1 passport records. And then I typed up my friend's name.  
2 I saw their passport records. I thought it was  
3 interesting.

4 So I shared it with them, and then they gave  
5 me suggestions for people to look up. I should have,  
6 you know, stopped that at that point. But I would work  
7 there overnight. I would, you know, there are certain  
8 times when you don't have that many tickets to work on,  
9 so I would just browse these people, and one of them was  
10 the secret agent that was involved.

11 And then towards the last month there, when  
12 I was -- I was supposed -- I was switching to my  
13 database developer position. I would be moving from the  
14 secure location, the cleared facility, where I obtained,  
15 you know, an interim secret clearance, I would be moving  
16 from there to another location in Tysons Corner, so I  
17 would lose access to my computer.

18 And Ishak and my brother convinced me that  
19 there was -- and of course I take full responsibility  
20 for organizing it -- that, you know, retaining access to  
21 that system could be useful to us. So I devised the  
22 idea of using one of the tools that I had at home, the  
23 Gumstix device, to retain access to that system.

24 I didn't want it for any financial means or  
25 anything like that. I simply wanted access to my tools

1 and it could be useful in some manner.

2 Towards that end, I want to kind of talk  
3 about -- a little bit about the count, the Count 8. I  
4 think we had a talk about it at the plea hearing. We  
5 talked about it being, you know -- it says that  
6 unauthorized access to a government computer -- or  
7 exceeded authorized access to a government computer for  
8 purposes of financial gain, and that I obtained  
9 something of \$5,000 worth or more.

10 So with regards to that, you know, we had a  
11 talk -- discussion about that during the plea hearing.  
12 And I said that, you know, it was for -- I agreed to  
13 plead guilty. You said that, you know you don't have --  
14 don't plead something to something you didn't do.

15 So I said, "I plead guilty to that," but it  
16 be based on the thing -- based on the statement that I  
17 made to GS agents that I was looking for contract  
18 opportunities. I go above and beyond my duties to see  
19 where I could, you know, understand the system for  
20 contracts and propose contracts.

21 Because in terms of a financial -- in terms  
22 of a financial motive, that was my only financial motive  
23 for doing what I did.

24 And then -- and we talked about -- you said  
25 you didn't completely, you know, agree with me on that.

1           My lawyer stepped up and said, you know:  
2       These guys were doing a lot of things for contracting,  
3       and that that contracts was a big, you know, reason for  
4       why they did a lot of what did they.

5           And you -- and then John Taddie stood up,  
6       the state's attorney stood up and said that there was  
7       three ways we could have, you know, fulfilled the  
8       statute, because there was a misdemeanor statute as  
9       well. There is the criminal statute, but there is a  
10      misdemeanor statute if it wasn't financial --

11           THE COURT: Misdemeanors are crimes, also.

12           THE DEFENDANT: Yes, I know. But for the  
13      financial -- if the financial portion was out of it,  
14      that it was a misdemeanor. But they put the financial  
15      portion in there.

16           And he said that there was three ways that  
17      the financial portion could have been assessed. It was,  
18      one, if I intended to sell any of the passports; two,  
19      for criminal and tortious conduct; or three, that I  
20      intended to use it for government contracts.

21           And then you said, you know: Is it  
22      acceptable?

23           And the state's attorney said: Yes, this is  
24      one of the ways that the government -- or the statute  
25      would have been proved.

1           So I urge that, you know, the consideration  
2           for that statute be placed that I was looking for a  
3           contract.

4           I would just like to talk a little bit about  
5           my postarrest conduct. I have now obtained employment  
6           with Thorlabs -- they are a company that through --  
7           (inaudible) -- is the staffing contract to Thorlabs --  
8           as a software engineer.

9           They initially interviewed me before the  
10          indictment. And after the indictment came out there was  
11          a press release saying that I was looking at 39 years.  
12          So they withdrew the offer and decided to go with  
13          someone else.

14          But then after that person wasn't able to  
15          perform his duties, they contacted me and said: We  
16          would like to give you a chance.

17          So they have given me a chance to work at  
18          their facility, and I am doing good work there. And I  
19          have a letter from my job, the director of software. I  
20          believe you might also have this, but I would like to  
21          present it to you.

22          THE COURT: All right. I think your counsel  
23          has already presented it.

24          Do they know about your conviction?

25          THE DEFENDANT: Yes, they know. But I

1       talked to them extensively about it, and about what I  
2       could receive and, you know, the possibilities, so that  
3       they are well aware.

4               THE COURT: All right.

5               THE DEFENDANT: So that's the main thing.

6               Will my lawyer be able to put certain things  
7       up for consideration to the sentencing decision?

8               THE COURT: Yes. Yes.

9               THE DEFENDANT: Okay. So then the last  
10       thing I would like to say is that my job -- my dad is  
11       out of work as of 24th of September, so I am the sole  
12       income earner for the family, the sole provider for the  
13       family.

14               And I ask that you permit me to work for  
15       three months to finish restitution to victims. I have  
16       most of the money in my bank account that are dedicated  
17       to the -- to paying off restitution, but I still need  
18       some more. So it allows me to pay a restitution for the  
19       victims.

20               I would also like to be able to provide for  
21       my family while my father is looking for another job.

22               THE COURT: Your father has a PhD, doesn't  
23       he?

24               THE DEFENDANT: He has a PhD, but he has  
25       been without of the work force for 20 years, so -- or

1 17, 15 -- 15 to 17 years. So -- and in Saudi Arabia.

2 THE COURT: He was working in Saudi Arabia,  
3 wasn't he?

4 THE DEFENDANT: Yes. But he was working in  
5 middle management, and they were cutting middle  
6 management because Alcatel-Lucent got bought out by  
7 Nokia.

8 THE COURT: He hasn't been out of work for  
9 17 years, has he?

10 THE DEFENDANT: He hasn't, no. It's just  
11 that he has been in one position, very focused. It will  
12 take him time to get a new position. This give me the  
13 opportunity to provide for my family while that is  
14 happening.

15 I would also like to fulfill my contract  
16 with Thorlabs, so they can see that I am a productive  
17 employee, and that after a term of confinement I may be  
18 able to return to the job.

19 I would like to thank you for listening.

20 THE COURT: All right. You may be seated.

21 THE DEFENDANT: (Complies.)

22 THE COURT: Mr. Taddie, explain if you will,  
23 please -- and I will give Mr. Abbas an opportunity --  
24 what did you understand Mr. Akhter to say with respect  
25 to Count 8.

1           ATTORNEY TADDEI: I am not quite sure, to be  
2 honest, your Honor. Just looking at the statement of  
3 facts -- and I can't, you know, remember exactly every  
4 single thing that was said or discussed during the plea  
5 hearing.

6           What I do know is that he signed and swore  
7 on a statement of facts pleading guilty to conspiracy to  
8 commit -- excuse me -- conspiracy to commit an offense  
9 against the United States by unauthorized access to a  
10 government computer system.

11           And there are enhancements related to that  
12 statute based on three possibilities, one, if an offense  
13 is committed for the purposes of private or financial  
14 gain; two, if an offense is committed in violation of  
15 the laws of state or federal entity -- in this case we  
16 charge in pursuit of a violation of Virginia Code  
17 18.2152.5, which is computer invasion of privacy; or,  
18 three, if the value of the information obtained exceeded  
19 \$5,000.

20           And that was charged by the grand jury in  
21 the conjunction, and the defendant indeed pled guilty to  
22 a statement of facts stating that, all in conjunction,  
23 as well as the indictment. So I am not exactly sure  
24 what he is doing now.

25           But it does, to me, bring up sort of a

1 somewhat troubling point, I think, in addition to some  
2 of the things the defendant said during his allocution,  
3 as to whether or not he fully embraces responsibility  
4 for his crimes.

5 He does talk about how, with respect to the  
6 State Department hack, that, "My brother and Ishak  
7 convinced me that this would be a good idea."

8 He talks about, you know, how he had the  
9 specific business-focus purpose. I am not exactly sure  
10 how that makes his conduct any better, even with his own  
11 framing.

12 There is also no denying that he had a  
13 discussion with Ishak as to whether or not he would be  
14 able to unilaterally approve passport and visa  
15 information, as well as the financial gain that could be  
16 attended -- attended from that by selling this  
17 information on the Darknet; whether or not the  
18 defendant -- and he now maintains that he never actually  
19 had intent to do that -- the mere factor that he  
20 considered it and it was debated is nonetheless  
21 extremely serious.

22 And I think one of the challenges  
23 particularly in this case is there is no denying that  
24 the defendant here has done some notable things with his  
25 life --

1 THE COURT: Well, I am not asking for  
2 allocution yet. I am asking to understand what it is --  
3 let me ask Mr. Abbas.

4 ATTORNEY TADDEI: Maybe Mr. Abbas has a  
5 better idea, because all I know is that the defendant  
6 pled guilty in the conjunction to those three  
7 predicates, your Honor, in the statement of facts.

8 THE COURT: What is it you understand your  
9 client to be saying today?

10 I understood that he is saying, he is not  
11 really guilty --

12 ATTORNEY ABBAS: No, your Honor.

13 THE COURT: -- of Count 8.

14 ATTORNEY ABBAS: No, your Honor. That is  
15 definitely not what Mr. Akhter's point was. Mr. Akhter  
16 is guilty of Count 8, and he articulated to this Court  
17 that he is guilty of Count 8.

18 What Mr. Akhter was saying was, his  
19 understanding of Count 8 is that it matters what purpose  
20 he had in the unauthorized access.

21 Like Mr. Taddie said, there are particular  
22 enhancements that attach to particular purposes of the  
23 unauthorized access. And what Mr. Akhter was saying and  
24 was offering the Court, clumsily but earnestly, was that  
25 the searching that he did, the installation of the

1 Gumstix device that he did, was with the mind that:  
2 Perhaps some day these things that I am doing now are  
3 going to be of benefit to the company that my brother  
4 and I have been trying to stand up.

5 That's the point that Sohaib was trying to  
6 communicate, not as -- I think this is important -- he  
7 attached the letter to the PSR report. He wrote it. It  
8 was in his words. You can tell. It's not the case that  
9 Mr. Akhter is trying to excuse the conduct, but he is  
10 offering an earnest explanation for why he is in the  
11 situation he is in.

12 And his perspective -- and I think it's a  
13 correct perspective -- is that it matters why he did it.  
14 And in this case, yeah, there were -- there were  
15 comments about selling things on the Darknet. There is  
16 no -- Sohaib never went on the Darknet.

17 You are right -- Mr. Taddie is right that,  
18 so his articulation was Mosevik (phonetics) and Muneeb  
19 convinced him that this would be a good idea, but then  
20 the very next sentence is: Then I devised a plan to  
21 carry out the installation of the Gumstix device.

22 Sohaib's point is a credible one. In the  
23 grand scheme of conduct among the three coconspirators  
24 that engaged in largely the same conduct, it appears  
25 that Mosevik and Muneeb went steps beyond -- in some

1 cases went a few steps beyond the steps that Sohaib  
2 took.

3 But all of that is a very long way of saying  
4 that Sohaib's point was just to explain that -- and it  
5 confirms what the U.S. attorney's point was, that a lot  
6 of the explanation for this conduct wasn't purely  
7 financial.

8 No doubt that there is a financial benefit  
9 here, but especially for Sohaib specifically, you can  
10 see in the list of transactions that -- their plane  
11 tickets, their rental cars, their hotels, their  
12 electronic devices, and the vast majority of which  
13 accrue an exclusive benefit to a single person. In  
14 almost all the cases, that single person wasn't Sohaib.  
15 The single person was either Muneeb or Mosevik.

16 Sohaib is responsible for what he did.  
17 There is no question about the fact that he is  
18 responsible. But -- and maybe we are getting into  
19 allocution here, but this is an exceptional defendant  
20 that is appearing before the Court, not just  
21 exceptionally because he is really smart and he  
22 graduated really early by taking a lot of credit hours,  
23 but he is exceptional morally.

24 You know, I think what was really surprising  
25 to the attorneys involved in this case was the

1 reluctance of the Akhter twins, despite having every  
2 incentive in the world to share with us all the good  
3 things that they have done in their lives, they don't  
4 see it the way that we see it. This is just what they  
5 did. This is who they are.

6 And I think it warrants a second chance, and  
7 I think -- I think now we are getting a little bit  
8 beside the point. So I want to reserve. I do have a  
9 few additional comments to make.

10 THE COURT: Oh, I am going to give you the  
11 opportunity.

12 But anyway, to sum up, you are making clear  
13 that he is not saying he is innocent of Count 8, that he  
14 was simply pointing out that there are various ways in  
15 which an offense under Count 8 might be aggravated, and  
16 that he didn't do it for financial gain.

17 Is that what you are saying?

18 ATTORNEY ABBAS: Well, so, he was looking  
19 for -- he was -- the things that he did were with the  
20 mind that it might allow him to get a contract in the  
21 future.

22 THE COURT: In the future.

23 ATTORNEY ABBAS: So that's it.

24 THE COURT: Mr. Taddie, is that your  
25 understanding?

1 ATTORNEY TADDEI: No, your Honor.

2 I think it's important that what the  
3 statement of facts maintains is that we would have  
4 proven these facts beyond a reasonable doubt at trial.  
5 The government would have proven certain facts. And  
6 there are, indeed, three ways that an individual  
7 receives an enhancement under Section 1030.

8 I think it's important to clarify that the  
9 defendant, in his statement of facts, did swear that the  
10 government, had it proceeded to trial, would have proven  
11 beyond a reasonable doubt that the offense was committed  
12 for the purpose of private financial gain or commercial  
13 advantage, that it was committed in furtherance of a  
14 criminal or tortious act in violation of the laws of  
15 Virginia -- computer invasion of privacy -- and that the  
16 value of information obtained exceeded \$5,000.

17 Those were three things that he pled to in  
18 this Court in a very lengthy and detailed proceeding,  
19 that the government would have proved had this case  
20 proceeded to trial.

21 THE COURT: All right.

22 Anything further, Mr. Abbas?

23 ATTORNEY ABBAS: Your Honor, that's not  
24 inconsistent with what Sohaib's point was. Sohaib's  
25 point concedes that there was a violation of the law

1       that Mr. Taddie just reiterated. But Mr. Akhter is just  
2       describing in specific factual detail what the content  
3       of his intent was.

4               THE COURT: All right.

5               I'll hear allocution from you now.

6               THE DEFENDANT: From me?

7               THE COURT: I have heard your allocution,  
8       Mr. Akhter.

9               Do you have anything else you wish to say?

10              THE DEFENDANT: I just wanted to clarify --  
11       I wanted to clarify that point, because -- I wanted to  
12       say that I am not -- I wasn't doing it with the intent  
13       to sell passport and visa information. I was doing it  
14       with the intent to get a contract one day.

15              THE COURT: All right. You may be seated.

16              THE DEFENDANT: (Complies.)

17              ALLOCUTION ON BEHALF OF THE DEFENDANT

18              ATTORNEY ABBAS: Mr. Akhter is a good person  
19       that has done bad things. He's a 23-year-old young man  
20       who has accomplished, as a 23-year-old, what many folks  
21       decades older can't.

22              When he was still a teenager -- it  
23       embarrasses me to think about what I was doing when I  
24       was that age. When he was still a teenager, he created  
25       a jacket to help the blind understand the objects that

1 are around them.

2 After being the youngest graduate of George  
3 Mason in 2011, able to do pretty much what he wanted, he  
4 chose to utilize his immense abilities to develop a  
5 device that would allow the blind to use computers in  
6 the way that he can use computers.

7 He is good. He wants to use his talents to  
8 make meaningful, substantial contributions to this  
9 society. That is part of what this Court should take  
10 into account when it's imposing a sentence.

11 At this point, the Court has imposed a  
12 sentence on all of the other coconspirators aside from  
13 Sohaib. So I do think that it is appropriate for this  
14 Court to consider Sohaib's conduct relative to the  
15 conduct of his coconspirators.

16 THE COURT: Well, you can eliminate Ishak  
17 because he got a Section 5(k) reduction, didn't he?

18 ATTORNEY ABBAS: (To Attorney Taddei) If  
19 you want --

20 ATTORNEY TADDEI: Your Honor, I don't  
21 believe the government is willing to comment on that in  
22 from of open court at this time. I believe that matter  
23 is still under seal.

24 THE COURT: All right. I think the sentence  
25 I -- is the sentence under seal?

1 ATTORNEY TADDEI: I believe that it is, your  
2 Honor, for some unknown reason. But we would be happy  
3 to --

4 THE COURT: Do you know what sentence he  
5 received, Mr. Abbas?

6 ATTORNEY ABBAS: There was an indication in  
7 the draft report that he was sentenced to six months  
8 incarceration.

9 THE COURT: Yes, but that's after -- that's  
10 a distinguishable situation from this. I will tell you  
11 that much right now.

12 ATTORNEY ABBAS: Yes, your Honor.

13 I want to make clear that that's not where  
14 the brunt of this point is going to be made.

15 Judging Sohaib's conduct, I think it's  
16 important to understand that, one, the financial benefit  
17 that he gained from the credit card scheme that he did  
18 participate in was smaller than what his equivalent  
19 coconspirator benefited from.

20 The use of government computer systems was  
21 without excuse, undoubtedly. But all the information  
22 that he accessed is now securely and exclusively in  
23 government hands.

24 Sohaib is committed to providing expedient  
25 restitution to right the wrongs that he helped

1 perpetuate and intends on making a substantial  
2 restitution payment in the coming days.

3 But Sohaib deserves a chance, I believe, to  
4 rebound from the serious mistakes that he has made.  
5 This Court doesn't need to worry about deterring Sohaib  
6 Akhter from this conduct again in the future.

7 From indictment forward, there aren't  
8 allegations that can Sohaib Akhter continued and  
9 persisted in the conduct that was illegal, that was  
10 troubling to the government, that was in any way, shape  
11 or form a violation of his bond conditions.

12 Instead, since indictment he has  
13 volunteered. He has worked with close friends on  
14 startups. He has obtained employment from a cutting  
15 edge optical equipment company, and he has sustained  
16 that behavior.

17 Sohaib is able to conform his conduct within  
18 the parameters of the law, and so the deterrent value of  
19 a prolonged period of incarceration against him won't --  
20 would be of marginal value.

21 And the promise that he has as an  
22 individual -- his youth is a reason why the deterrent  
23 value that this Court could project out from a  
24 substantial sentence to Sohaib is outweighed by the  
25 detriment to Sohaib by that period of incarceration.

1           While the guidelines reflect a sentence --  
2           sentencing range in years, we ask this Court  
3           respectfully to consider a period of home -- a prolonged  
4           period of home confinement that will allow Sohaib Akhter  
5           to continue to maintain his skills, support his family,  
6           and while making it very clear to him that this conduct  
7           is not to be repeated.

8           In the alternative, a short period of  
9           incarceration followed by a prolong period of home  
10          confinement would be enough of a sentence, but not more  
11          than sufficient.

12          Thank you.

13          THE COURT: Mr. Taddie.

14          ATTORNEY TADDEI: Thank you, your Honor.

15          ALLOCUTION BY THE GOVERNMENT

16          ATTORNEY TADDEI: The government asks for a  
17          sentence of 33 months of imprisonment in this case. And  
18          we have been through, pretty much, all of the relevant  
19          details at this point, and I would incorporate much of  
20          what I said earlier at Muneeb Akhter's sentencing,  
21          because I also believe it applies to Sohaib Akhter, as  
22          well. But a few things I wanted to touch on in  
23          particular.

24          First is something that Mr. Abbas says.  
25          What did this defendant choose to utilize his immense

1 abilities to do?

2 In the circumstances of this case and in the  
3 conduct that he pled guilty to, what he chose to use his  
4 immense abilities to do was, one, assist his brother and  
5 a coconspirator in stealing thousands of people's credit  
6 card information and using for that financial gain.

7 But honestly, more trouble from the  
8 government's perspective, as it specifically adheres to  
9 Sohaib Akhter, he was an employee who contracted and  
10 worked within the State Department, and he spent, you  
11 know, several months working there.

12 And a lot of this is particularly  
13 problematic when it's placed in context by a  
14 conversation that Mr. Akhter and his brother had back in  
15 June of 2014, when Muneeb Akhter started work at the  
16 Department of Homeland Security.

17 In that conversation, which is in the PSR  
18 and the statement of facts, the brothers discuss, you  
19 know, if you can get -- getting a job at a government  
20 facility -- which Muneeb Akhter had -- about lying in  
21 wait, about trying to figure out insider protection  
22 methods, and about using viruses or malware strains, and  
23 retooling them such that they can become a weapon.

24 And if you look at the pattern of conduct  
25 here -- and yes, that was a conversation, but I think

1 it's really indicative of a lot of what happened after  
2 this, in the defendant's behavior.

3 He then got a job at ActionNet. He spent  
4 some time there, and after a period of time he started  
5 looking up people's passport information, more than 60  
6 people whose passport information he accessed,  
7 including, as we have been over in detail, the  
8 government agent who was investigating them.

9 And then he took that information and he  
10 removed it from the computer system, without real regard  
11 of what risks that might present.

12 Whether or not these defendants were going  
13 to use it personally -- a factor that they did discuss  
14 and did talk about -- there was no consideration of the  
15 idea that this information could fall into, potentially,  
16 someone else's hands, or that his brother might do  
17 something with it, as he was threatening to do.

18 There just appears to be no real respect for  
19 electronic boundaries, and for the sanctity of people's  
20 personal information.

21 And then what happens at the State  
22 Department is you have an individual who quite clearly  
23 plots to go in on a weekend, when no one else is around,  
24 and has the temerity to drill a hole in a wall and take  
25 an electronic device and try to put it and install it in

1 such a way that nobody would be able to find it, because  
2 he is getting transferred to another facility.

3 And, again, he has a conversation where he  
4 hypothesizes about things that can be done with it, how  
5 it could be done to access information, used to create  
6 and sell passport and visa data on the Darknet --  
7 really, really troubling conversation and really  
8 troubling potential conduct.

9 And fortunately, in this circumstance, the  
10 government was able to discover this plot quickly  
11 enough. But we don't know what they would have done  
12 with this information had we not.

13 And that gets to, really, sort of the root  
14 of the problem. In addition to the great threat that  
15 this represents, the defendants in this case, and in  
16 particular Mr. Akhter here, appeared to have no respect  
17 for the risks that this behavior incorporated, and for  
18 the things that can be done with that sort of access.

19 And particularly at a point in time right  
20 now, your Honor, where hacking of corporations and  
21 particularly government computer systems is an  
22 increasing problem in society, a significant term of  
23 imprisonment is important, not just to deter this  
24 particular defendant, but to deter other defendants that  
25 might consider engaging in similar conduct, and conduct

1       that the government, quite frankly, may not be as lucky  
2       in figuring out in time before something truly serious  
3       happens in this case.

4               It was charged as a conspiracy here because  
5       the plan here was ultimately unsuccessful. But that  
6       doesn't diminish the seriousness of the conduct here,  
7       nor the need for a stiff sentence here.

8               And lastly, your Honor, as I mentioned for  
9       Mr. Muneeb Akhter, the defendant, as we have been  
10      through, has had many advantages in life. He's had a  
11      phenomenal education. He has a phenomenal family. He  
12      has been given basically everything a young man would  
13      desire in terms of education and job opportunities.

14              And he has chosen to utilize those immense  
15      abilities to steal, to hack into government computer  
16      systems, to remove people's personal information, and we  
17      ask that he be held accountable for those actions here  
18      today, your Honor.

19              THE COURT: Mr. Abbas, you indicated you had  
20      a witness. Who is that witness and what do you proffer  
21      he would --

22              ATTORNEY ABBAS: Yes. The witness was James  
23      Arcieri (phonetics), who is an executive at IBM, who  
24      also runs a startup called FitBud. He knows Sohaib from  
25      college, and --

1 THE COURT: Proffer what he would testify  
2 to.

3 ATTORNEY ABBAS: He would testify that  
4 Sohaib can, in fact, conform his conduct with the law,  
5 and that he is able to utilize computers in a  
6 professional, lawful manner.

7 And James, as someone who has something to  
8 lose, both as a startup owner and as a business  
9 executive, would have said that he is so sure of that,  
10 that he is happy to give access to the code that is at  
11 the core of his startup and let Sohaib have access to it  
12 and work on it.

13 The reason we wanted to proffer that -- the  
14 reason we wanted to have the Court hear that testimony  
15 directly in person -- and I understand that that's not  
16 the typical route -- is because the government is  
17 emphasizing and articulating Sohaib Akhter as a  
18 dangerous ongoing threat to the US and to others, and  
19 that's not the case.

20 There is no question that Sohaib Akhter  
21 committed serious criminal wrongdoing. There is no  
22 question of that. But Sohaib has already learned his  
23 lesson.

24 Last year, before the raid, he was engaged  
25 to be married. As a result of the raid and the criminal

1 process that was going to follow, that engagement was  
2 broken off.

3 He will -- it's very clear and very earnest  
4 that one of his bigger goals in life was to do work for  
5 the Federal Government. That's what he wanted to do  
6 after college. He has lost that opportunity, probably  
7 for the rest of his life.

8 He has lost a lot already, which doesn't  
9 mean that this Court doesn't need to punish him; but the  
10 punishment should take into account all the things that  
11 he has already lost, as well as who he is how he can  
12 contribute in the future.

13 And it is the case that Zone D offenders,  
14 which is what Sohaib is, Zone D offenders, 12,  
15 13 percent of the time are sentenced to some form of  
16 alternative sentencing.

17 Whether that takes the form of a split  
18 sentence that includes incarceration and home  
19 confinement, or whether that includes just home  
20 confinement, it is -- it is the case that courts across  
21 the country have imposed alternative sentences in such  
22 circumstances.

23 And so we respectfully request --

24 THE COURT: Zone D?

25 ATTORNEY ABBAS: Yes, your Honor.

1 THE COURT: All right. Where in the  
2 guidelines does it say that in Zone D they recommend --  
3 because it's not mandatory -- but where in Zone D is it  
4 recommended that sentences can be split, in Zone D?

5 ATTORNEY ABBAS: So it's not in the  
6 Sentencing Guidelines. The -- it's -- the Sentencing  
7 Commission published a report in June 2015 --

8 THE COURT: That you attached here.

9 ATTORNEY ABBAS: Yes, your Honor.

10 THE COURT: All right. But it doesn't say  
11 anything about Zone D, does it?

12 ATTORNEY ASSAS: Yes, your Honor. It does.

13 THE COURT: All right. I've got it right  
14 here. Tell me what page it is.

15 ATTORNEY ABBAS: It's page 19.

16 THE COURT: All right. And tell me, what  
17 does it say on page 19?

18 ATTORNEY ABBAS: Table 7 shows the median  
19 loss amount for fraud offenders sentenced to alternative  
20 was \$391,461, compared to a median loss of \$636,261 for  
21 those sentenced to imprisonment.

22 So this is -- and I am excerpting a part of  
23 the section that regards Zone D offenders, and  
24 discussing --

25 THE COURT: You realize Zone D goes up to

1 life in prison.

2 ATTORNEY ABBAS: Yes, your Honor, but it  
3 starts -- it starts much lower, and --

4 THE COURT: There is nothing, nothing in the  
5 guidelines, in the manual or anything else, that says  
6 that if the guidelines come out in Zone D, that --  
7 anywhere in Zone D, that it's authorized to split a  
8 sentence.

9 Let me ask the probation officer.

10 Are you aware of any such statement?

11 THE PROBATION OFFICER: No, your Honor.

12 ATTORNEY ABBAS: If the Court issues a  
13 downward variance, there is -- there wouldn't be  
14 anything --

15 THE COURT: Oh, a downward variance, I quite  
16 agree with you. If you varied downward to Zone A or  
17 Zone B, that's a different matter; but not Zone C.

18 ATTORNEY ABBAS: And so what the  
19 Sentencing --

20 THE COURT: Zone D.

21 ATTORNEY ABBAS: -- what the Sentencing  
22 Commission report is, it's a statistical analysis of  
23 what courts have done with Zone D offenders.

24 And so we --

25 THE COURT: I asked --

1 ATTORNEY ABBAS: Yes.

2 THE COURT: I asked you whether there was  
3 any statement authorizing it or even recommending it.  
4 There isn't. It's just an analysis of data.

5 ATTORNEY ABBAS: Yes, your Honor. That's  
6 what it is.

7 THE COURT: All right.

8 ATTORNEY ABBAS: Thank you.

9 THE COURT: Anything further?

10 ATTORNEY TADDEI: Nothing from the  
11 government, your Honor.

12 THE COURT: All right.

13 Do you have something, Mr. Akhter?

14 ATTORNEY ABBAS: Can I -- is it all right  
15 that I confer.

16 THE COURT: Yes, you may confer with him.

17 ATTORNEY ABBAS: Your Honor, Mr. Akhter has  
18 one more brief comment to make.

19 THE COURT: All right. I will hear from  
20 him.

21 Come to the podium, Mr. Akhter.

22 FURTHER ALLOCUTION BY THE DEFENDANT

23 THE DEFENDANT: Your Honor, I would like to  
24 talk about the number -- the different types of  
25 sentences that could be imposed.

1                   We are first-time offenders, nonviolent. We  
2                   wouldn't be any problem to the communities.

3                   I would request that I could be given some  
4                   time of imprisonment to, instead, community service.

5                   I would like to also be able to provide for  
6                   my family -- I think we talked about that -- as well.

7                   In terms of the alternative sentences, the  
8                   Commission, US Sentencing Commission says that: The  
9                   proportion of federal offenders sentenced to  
10                  alternatives remain low and decreased slightly during  
11                  the prior decade.

12                  They are trying to say that, you know, there  
13                  should be a higher number of people, you know, within  
14                  reason, given alternative sentences.

15                  Contrary to the -- on page three it says,  
16                  "Any sentence of probation or any split sentence as a  
17                  substitute for imprisonment for offenders whose  
18                  sentencing ranges are in Zone D, necessarily constitutes  
19                  a downward departure and variance," which we are  
20                  requesting at this time.

21                  Of course, it's not, you know, incumbent on  
22                  the Court to say that -- give a downwards variance, but  
23                  we are requesting it.

24                  On Table 7 it says -- what is it called --  
25                  offenders with sentences in Range D, the table that it

1 gives, it says the alternative is imposed and an average  
2 offense level of 19. The average offense level -- the  
3 final offense level in our case is 18. And it says that  
4 the median loss amount is 391,000.

5 The loss amount in our case is less than ten  
6 percent of that, and we wish to repay it in full. So I  
7 request that, humbly, that the Court takes into  
8 consideration an alternative sentence, please.

9 Thank you.

10 THE COURT: All right.

11 Mr. Taddie?

12 ATTORNEY TADDEI: Nothing further from the  
13 government, your Honor?

14 THE COURT: Do you know what table he is  
15 referring to?

16 ATTORNEY TADDEI: I don't, your Honor, but I  
17 would point you to 5C1.1, Subsection (f) --

18 THE COURT: Yes.

19 ATTORNEY TADDEI: -- which states, "If the  
20 applicable guidelines range is in Zone D of the  
21 sentencing table, the minimum term shall be satisfied by  
22 a sentence of imprisonment."

23 Thank you.

24 THE COURT: Just so I am sure what it is he  
25 is looking at, Mr. Abbas, show that to -- show what that

1 is to Mr. Taddie, and give it to the court security  
2 officer. I am sure I have seen it --

3 ATTORNEY ABBAS: Yes, your Honor.

4 THE COURT: No, you stay there.

5 THE DEFENDANT: I have highlighted it.

6 (Document tendered.)

7 THE COURT: This is part of what you  
8 submitted earlier, isn't it --

9 ATTORNEY ABBAS: Yes, your Honor.

10 THE COURT: -- Mr. Abbas?

11 I'll give you a moment to read that,  
12 Mr. Taddie. I'll take a five-minute recess and come  
13 back and impose sentence after I have reread this. I am  
14 sure I have read it before.

15 (Court recessed.)

16 (Court called to order at 4:20 p.m.)

17 THE COURT: Well, I have read this for about  
18 the second or third time and it is, as I am not  
19 surprised to say, misunderstood by you, Mr. Akhter. I  
20 am sure Mr. Abbas understands it.

21 What you focus on is the statement, "Any  
22 sentence of probation or any split sentence as a  
23 substitute for imprisonment for offenders whose  
24 sentencing ranges are in Zone D necessarily constitutes  
25 a downward departure or variance."

1           That's imperfectly stated. It isn't  
2           "necessarily constitutes"; it's "necessarily requires a  
3           downward departure."

4           It needs -- you have a downward departure or  
5           a variance down to that area where a split sentence is  
6           possible. In other words, if you impose a sentence of  
7           120 months, you can't say: Okay, 119 months in  
8           probation and 1 month of incarceration. That is  
9           illegal. It's impossible. Can't be done.

10           You would have to vary or depart downward  
11           into an area of Zone A or Zone B where split sentences  
12           are permitted. That's what this means.

13           Now, there are no departures warranted in  
14           this case. There is no valid ground for a departure  
15           that has been raised or that occurs to the Court.

16           Variance are also -- I mean are always  
17           possible. Variance are always within the Court's  
18           discretion under 3553(a).

19           Then the question arises, I take -- I think  
20           the best way to take Mr. Akhter's statement and  
21           Mr. Abbas's argument for home confinement is that I  
22           should vary down to a sentence in that area. And I will  
23           address that now at sentencing.

24           Do you see it any differently, Mr. Taddie?

25           ATTORNEY TADDEI: Not at all, your Honor.

1 THE COURT: Mr. Abbas?

2 ATTORNEY ABBAS: No, your Honor.

3 THE COURT: All right.

4 Mr. Akhter, come to the podium.

5 THE DEFENDANT: (Complies.)

6 IMPOSITION OF SENTENCE BY THE COURT

7 THE COURT: Mr. Akhter, you stand convicted  
8 of three serious crimes by virtue of your plea, and the  
9 law requires that I consider a variety of factors under  
10 3553(a) in order to impose a sentence. And that  
11 sentence should be a sentence that is not greater than  
12 necessary to achieve the goals that are stated in  
13 3553(a).

14 And I must say you've had adequate  
15 opportunity to allocute. Your counsel has submitted a  
16 great deal of information, including a ream of  
17 information this morning -- although to be fair,  
18 Mr. Abbas, a good bit of that had already been  
19 submitted.

20 ATTORNEY ABBAS: Yes, your Honor.

21 THE COURT: It was a duplicate submission.  
22 And part of it was this matter that I just addressed  
23 from the article by Courtney Semitch (phonetics), senior  
24 research associate of the Office of Research and Data.  
25 And I have already made clear what I think is not quite

1 accurately stated by him.

2 But it's -- it's a point that's important to  
3 be made and it's important for me to consider.

4 And this sentencing has taken a long time  
5 because there is a great deal to consider, and I think  
6 it is appropriate.

7 Well, the first question -- or first factor  
8 for the Court to consider in imposing an appropriate  
9 sentence is your personal history and characteristics.

10 I think I am reasonably familiar with all of  
11 that. You come from a good family, a strong family.  
12 You come from a family of achiever. Your father has a  
13 PhD, mother has several degrees, I think in biology or  
14 something close to that. You have an achieving brother  
15 and sister, and your twin is a person who has achieved a  
16 good deal, as you have. You all are talented people.

17 Now, I tell all defendants -- you heard me  
18 say this to your brother -- that life is making choices  
19 and living with the consequences. You don't determine  
20 where you are born. You don't determine to whom you are  
21 born. You don't determine what talents or what  
22 handicaps you are born with. But you determine in all  
23 respects how you respond to all of that.

24 You were fortunate in many respects, in  
25 where you were born, to whom you were born, whether you

1 were born with handicaps or talents.

2 You made bad decisions, criminal decisions,  
3 and for that there will consequences today.

4 The law requires that I take into account  
5 the nature and circumstances of the offense, how serious  
6 it was.

7 It was very serious. Yes, it only amounted  
8 to \$31,000 or thereabouts in pecuniary loss to victims.  
9 But the kind of activity you engaged in is quite  
10 serious, and I have taken that into account.

11 Next, the law requires that I impose a  
12 sentence that promotes respect for the law, that  
13 provides just punishment, and that deters you and deters  
14 others.

15 I am convinced that neither you nor your  
16 brother are highly likely to commit criminal conduct in  
17 the future. But you both still need to be deterred  
18 somewhat. You need to know that there are bad  
19 consequences for criminal decisions.

20 But that's not really drives your sentence.  
21 What drives your sentence is the fact that there needs  
22 to be just punishment for these offenses, and that  
23 others who commit similar offenses have to be deterred  
24 by what I do.

25 Your counsel also raises the need to impose

1 a sentence that does not involve unwarranted disparities  
2 between the sentence I impose on you and the sentence  
3 imposed on others convicted of essentially similar  
4 conduct.

5 And I am aware of Mr. Ishak's sentence and I  
6 take that into account. But that's distinguishable  
7 circumstances, because I think there was a 5(k). It may  
8 have been under seal, but that needs to come out.

9 In any event, the law also requires, as I  
10 said, that I impose a sentence that's not greater than  
11 necessary to accomplish all of this.

12 Now, your counsel has asked for a sentence  
13 of home confinement. I don't agree. Home confinement  
14 is not punishment. Sitting him with a clicker, TV set  
15 and a beer is not punishment, and punishment needs to be  
16 meted out here for this conduct.

17 You have argued, and your counsel indirectly  
18 argued -- you both argued -- for an opportunity to -- I  
19 think you said you wanted to work for two or three  
20 months to pay back the restitution.

21 Well, there will be a period of time. I am  
22 going to permit you to surrender voluntarily, and I may  
23 well give you that time. It won't be any longer, I can  
24 guarantee you.

25 In the end, a judgment has to be made,

1 Mr. Akhter, as to what sentence is appropriate for this  
2 conduct. I don't think that, yet, you see the conduct  
3 as seriously as I think it is. I truly don't think you  
4 see it as seriously -- as serious as I think that  
5 conduct really is. It is very serious conduct.

6 And the guidelines reflect that. Your  
7 guidelines, indeed, are -- and I should take those into  
8 account -- your guidelines are --

9 He is at a level what now, Mr. Abbas?

10 ATTORNEY ABBAS: Eighteen? Am I correct?

11 THE COURT: Eighteen.

12 ATTORNEY TADDEI: That's correct, your  
13 Honor.

14 THE COURT: 27 to 33; and the government has  
15 asked for a sentence of 33 months, given those  
16 guidelines.

17 Well, the government came in here today  
18 thinking the guidelines were going to be higher than  
19 that.

20 Am I correct, Mr. Taddei?

21 ATTORNEY TADDEI: That's correct, your  
22 Honor. That is also reflected in our initial  
23 recommendation.

24 THE COURT: That is, that it would be  
25 greater than 33.

1 ATTORNEY TADDEI: Yes, your Honor.

2 THE COURT: I understand that. The  
3 government views it as serious.

4 But I take into account your -- a lot of  
5 your personal history and characteristics. I was  
6 impressed with what you've done charitable, what you  
7 have done with some resources and your time and how you  
8 have helped people. I think -- I take that into  
9 account.

10 Ultimately, I have to make a judgment as to  
11 an appropriate sentence.

12 And it is the Court's judgment that you be  
13 committed to the custody of the Bureau of Prisons for a  
14 period of 24 months.

15 And upon release from confinement, you are  
16 to serve three years of supervised release.

17 And the 24 months is for all three counts.  
18 It's to run concurrently for each count.

19 And similarly, the period of supervised  
20 release is for each count, three years, but those terms  
21 are to run concurrently, as are the terms of  
22 incarceration.

23 I'll permit you to surrender voluntarily.  
24 And I'll put the surrender date -- Ms. Riffle, let's  
25 make it a hundred days from today. He's got a hundred

1 days to get everything done.

2 THE PROBATION OFFICER: Yes, your Honor.

3 THE COURT: And I will impose restitution in  
4 the amount of the 31,000.

5 Do you have the order there, Mr. Taddie?

6 ATTORNEY TADDEI: We do, your Honor.

7 ATTORNEY ABBAS: Yes.

8 THE COURT: All right. Hand that order up.  
9 And there should be a forfeiture order as  
10 well.

11 ATTORNEY ABBAS: Let's just confirm that --

12 THE COURT: And a \$100 special assessment  
13 for each count, for a total of \$300.

14 I don't impose any punitive fine to cover  
15 the costs of incarceration or supervised release, or any  
16 punitive fine at all in view of your significant  
17 restitution obligation.

18 It gives me no pleasure to impose sentences  
19 on any defendant. I don't like doing it. It's not the  
20 most pleasant part of this job. Indeed --

21 THE DEFENDANT: Can I say something very  
22 briefly about --

23 THE COURT: Speak up.

24 THE DEFENDANT: Can I say something very  
25 briefly --

1 THE COURT: Yes, you can.

2 THE DEFENDANT: -- about community service?

3 THE COURT: Oh, I am going to put that on  
4 there, but it's not going to be a substitute for  
5 anything.

6 THE DEFENDANT: Okay.

7 THE COURT: I am going to require that you  
8 do 60 hours of community service as a condition of your  
9 supervised release.

10 Now what I want that community service  
11 focused on is I want you to write an article or  
12 articles, to be posted on the Internet, describing your  
13 personal experience and as a warning to people not to  
14 engage in the conduct you engaged in.

15 I also -- you can perform that community  
16 service by appearing at high schools or colleges and  
17 telling people about your personal experience, and  
18 warning them against the kind of conduct you engaged in.

19 Now, did you want to say anything else?

20 You were thinking you were going to  
21 substitute community service for the incarceration. No,  
22 sir.

23 I think, Mr. Akhter, you still don't grasp  
24 how serious this conduct was.

25 THE DEFENDANT: Now I do.

1 THE COURT: I have no doubt that you will  
2 emerge from this experience a stronger and better  
3 person. You are already -- I think your counsel is  
4 exactly right. You are essentially a good person. You  
5 wouldn't do all the charitable things you've done if you  
6 weren't a charitable person.

7 But you can't steal from people. You can't  
8 break into computers. You can't use the skill you have  
9 for bad purposes. It's very serious, extremely serious.  
10 The guideline ranges reflect that. And I varied  
11 downward from that, and I chose not to vary downward to  
12 split the sentence. I don't think that's appropriate.

13 THE DEFENDANT: Thank you for your judgment.

14 THE COURT: Anything further?

15 Have I omitted anything, Ms. Riffle?

16 Oh, the special conditions of supervised  
17 release. They are as follows:

18 You are to comply with the requirements of a  
19 computer monitoring program to be administered and  
20 directed by the Probation Office. You'll have to  
21 consent to the installation of computer monitoring  
22 software on any computer that you use at home and have  
23 access to.

24 That doesn't apply to computers at your  
25 employer. You know, if your employer allows you to use

1 a computer, you have to reveal to an employer this  
2 conviction. And if they -- I think you have some people  
3 who believe -- have faith in you and are prepared, as  
4 your counsel proffered to the Court, prepared to let you  
5 have access to their computer system. That's fine. The  
6 Probation Office won't interfere with that.

7 And I would assume that having gone through  
8 this experience, you won't abuse that trust --

9 THE DEFENDANT: Yes.

10 THE COURT: -- in the future.

11 But you'll also have to incur -- don't incur  
12 any credit charges or open additional lines of credit  
13 without approval of the probation officer.

14 Now that ceases once restitution is paid.  
15 Once restitution is paid, he doesn't have to get  
16 approval of the probation officer for that.

17 And that restitution is joint and several  
18 with Mr. Akhter's brother; is that right?

19 ATTORNEY TADDEI: Restitution is joint and  
20 several with Mr. Akhter's brother, as well as Mr. Ishak  
21 in the order forthcoming.

22 THE COURT: Mr. Ishak, as well.

23 So once that's all paid off, they don't need  
24 to get permission to get credit.

25 And it is joint and several. So if

1 Mr. Akhter, Sohaib Akhter, pays it all off, then that  
2 relieves Muneeb and Ishak.

3 I guess I am using -- mixing up first names  
4 and last names. But that's my unfamiliarity. It would  
5 be -- it would relieve Mr. Muneeb Akhter's and  
6 Mr. Mosevik Ishak's obligation if Mr. Sohaib Akhter pays  
7 it all off.

8 Now, he will also have to provide the  
9 probation officer with access to any requested financial  
10 information, and apply all monies received from income  
11 tax refunds and lottery winnings, inheritances, that  
12 sort of thing, to the restitution obligation.

13 And I have a forfeiture order, too, as well.  
14 I'll enter both the restitution and the forfeiture  
15 order.

16 Now, this doesn't mean that I am heartless  
17 about your family and your father being out of a job and  
18 all of that sort of thing. Of course that's a hardship.  
19 But they will -- you know, your activity doesn't affect  
20 just you. That's part of being a family. They will  
21 simply have to make do.

22 Anything further from the government in this  
23 sentencing today?

24 ATTORNEY TADDEI: Nothing further. Thank  
25 you, your Honor.

1 THE COURT: Mr. Abbas?

2 ATTORNEY ABBAS: Your Honor, would you be  
3 willing to recommend that he be placed in a facility  
4 close to the DC Metro Area?

5 THE COURT: Yes, I'll recommend that.

6 But, as I said with respect to his brother,  
7 the Bureau of Prisons knows they are identical twins.  
8 That goes two ways. One, it militates in favor of  
9 putting them together because identical twins, what  
10 little I know about identical twins, they do well  
11 together, flourish together, and don't do well apart.

12 Well, I don't know if that's true about all  
13 identical twins. I don't know about identical twins.  
14 But that's all information the Bureau of Prisons has.

15 The problem is that if they are  
16 coconspirators, the Bureau of Prisons rarely puts  
17 coconspirators together, for the obvious reason.

18 But I will recommend that he be designated  
19 to serve his sentence in a facility close to this area  
20 so that he can be near his family, which is clearly a  
21 very strong, tightly-knit family, that would be helpful  
22 to him in his recovery from this experience.

23 ATTORNEY ABBAS: Thank you, your Honor.  
24 That's it.

25 THE COURT: Anything else, Mr. Abbas?

1 ATTORNEY ABBAS: No, your Honor.

2 THE COURT: Mr. Taddie, anything further?

3 ATTORNEY TADDEI: Nothing further, your  
4 Honor. Thank you.

5 THE COURT: Good luck to you.

6 Now, during this period of time that you  
7 have between now and your reporting date -- and the  
8 probation officer will tell you when and where to  
9 report, and you can't miss that. And it will be a  
10 hundred days -- no sooner than a hundred days from  
11 today. But you need to get busy. She will tell you  
12 where and when you have to report.

13 But during the interim, you are subject to  
14 all the conditions you have been living under at  
15 present. You understand that?

16 THE DEFENDANT: Yes, I understand.

17 THE COURT: That means you can't travel  
18 outside the district without the permission of the  
19 Court.

20 Mr. Abbas, you are familiar with all of  
21 those, and --

22 ATTORNEY ABBAS: Yes, your Honor.

23 THE COURT: -- and you will advise your  
24 client of that.

25 Now that doesn't mean that if this

1 company -- where you are working now, again, you told  
2 me?

3 THE DEFENDANT: Thorlabs. It's a company in  
4 Herndon, Virginia.

5 THE COURT: All right. Now, if they need  
6 you to travel somewhere, I am prepared to let you go.  
7 If we have advance information and we know about it, we  
8 will give you -- within the hundred days -- you can do  
9 it. And I would hope that they will continue to hire  
10 you after your period of incarceration is over.

11 THE DEFENDANT: All right. Thank you.

12 THE COURT: Anything further from the  
13 probation officer?

14 THE PROBATION OFFICER: No, your Honor.

15 THE COURT: All right. Or anyone one else?

16 ATTORNEY ABBAS: No, your Honor.

17 THE COURT: Court stands in recess.

18 (Court adjourned at 4:40 p.m. in USA v  
19 Sohaib Akhter.)

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1  
2 CERTIFICATE

3  
4 I, MICHAEL A. RODRIQUEZ, an Official Court  
5 Reporter for the United States District Court, in the  
6 Eastern District of Virginia, Alexandria Division, do  
7 hereby certify that I reported by machine shorthand, in  
8 my official capacity, the proceedings had upon the  
9 sentencing hearing in the case of UNITED STATES OF  
10 AMERICA v. SOHAIB AKHTER.

11  
12 I further certify that I was authorized and  
13 did report by stenotype the proceedings in said  
14 sentencing hearing, and that the foregoing pages,  
15 numbered 1 to 99, inclusive, constitute the official  
16 transcript of said proceedings as taken from my machine  
17 shorthand notes.

18  
19 IN WITNESS WHEREOF, I have hereto subscribed  
20 my name this 20th day of February, 2017.

21  
22  
23 /s/  
Michael a. Rodriquez, RPR/CM/RMR  
24 Official Court Reporter  
25

MICHAEL A. RODRIQUEZ, RPR/CM/RMR